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Title 19 ZONING

Chapter 19.100 INTRODUCTORY PROVISIONS**19.101 Title.**

This title shall be known and may be cited as the zoning ordinance of the city of Milwaukie, Oregon. The title is divided into sections. The three-digit number following the title number identifies section divisions. (Ord. 1907 (Attach. 2), 2002: Ord. 1880 (part), 2000)

19.102 Purpose.

The purpose of this title is to provide for the public health, safety, and general welfare of the citizens of the city through orderly community development, with consideration for concentration of population, economic development, limitation of dangerous, offensive, or unwholesome trades or industries, maintenance of adequate light and air, and regulation of traffic. (Ord. 1880 (part), 2000)

19.103 Definitions.

As used in this title:

“Abandonment” means wireless communication facility is abandoned when it has not been used by a licensed carrier for a period of six (6) months.

“Access” means the way or means by which pedestrians and vehicles enter and leave property.

“Accessory structure or accessory use” means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including any required off-street parking within two hundred (200) feet (measured in a straight line) of the building or use it is intended to serve.

“Adult entertainment business” means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. “Adult entertainment business” includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels, and adult theaters.

“Agriculture” means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

“Airport” or “aircraft landing facility” means any landing area, runway, or other facility designed, used, or intended to be used by aircraft and including all necessary taxiways, hangars and other necessary buildings and open spaces.

“Alley” means a minor way which is used primarily for vehicular service to the back or side of properties otherwise abutting on a street.

“Alteration” means a change in construction or a change in occupancy. Where the term “alteration” is applied to a change in construction, it is intended to apply to any change, addition, or modification in construction. When the term is used in connection with a change in occupancy, it is intended to apply to changes in occupancy from one use to another.

Alteration, Structural. “Structural alteration” means a change or repair which would tend to prolong the life of the supporting member of a building or structure. A change in the external dimension of the building shall be considered a structural alteration.

“Antenna” means electrical conductor or group of electrical conductors in the form of a metal rod, wire panel or dish that transmit or receive radio waves or microwaves for wireless communications.

“Antenna support structure” means a structure on which a wireless antenna is or may be placed.

Alternative support structure: An existing building, water tower, utility pole in the right of way or an antenna support structure that meets stealth design criteria.

Existing antenna support structure: Any support structure existing at the time of the application.

“Arbor” means an unroofed and unenclosed structure of vines, branches, or lattice work typically used to support climbing vines or shrubs.

“Application” means all materials and information submitted for action authorized under this title specified herein and on related administrative forms and checklists.

“Automobile service station” means a retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products; but not major automotive repairs, painting, and body and fender work.

“Bankful stage” means the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.

“Basement” means a portion of a building, not deemed a story, which has more than one half of its height (but not more than six (6) feet) measured from finished floor to finished ceiling above the adjoining ground level grade.

“Belfry” means an ornamental or functional roof mounted structure for enclosing a bell.

“Belvedere” means an architectural feature of a building designed to create views from the building.

“Bikeways” means any road, street, or path which in some manner is specifically designated for the use of bicycles or for shared use by bicycles and other transportation modes. The term “bikeway” includes bike lane, bike path, and bike route:

1. “Bike lane” means a portion of a road, street, or shoulder which has been designated for use by bicyclists through the application of a paint stripe.

2. “Bike path” means a separate trail or path on which motor vehicles are prohibited and which is for the exclusive use of bicycles or the shared use of bicycles and pedestrians.

3. “Bike route” means a system of bikeways designated by route markers. Bike routes include shared roadways open to motor vehicles and upon which no bicycle lane is designated.

“Boarding, lodging, or rooming house” means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

“Buffer area” means a land area with space, landscaping, and other means sufficient to protect the uses in one zone from being offensive to the uses in another zone.

“Building” means a structure built for the support, shelter, or enclosure of any persons, animals, chattels, or property of any kind excepting uncovered patios or decks not exceeding eighteen (18) inches in height above the average grade of the adjoining ground.

“Building height” means the vertical distance measured from the adjoining street centerline grade, as established by the city, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

“Building line” means a line that coincides with the front side of the main building.

“Build-to line” means an imaginary line on which the front of a building or structure must be located or built, and which is measured as a distance from a public right-of-way.

“Cellar” means a room or group of rooms, usually under a building, which has more than one half of its height measured from finished floor to finished ceiling below the average grade of the adjoining ground.

“Church” means a structure used by a religious organization having a tax-exempt status.

“City” means the City of Milwaukie, Oregon.

“Closed-end street system” means any configuration of streets, including cul-de-sacs, that connect to a

single point of access on the roadway network. “Closed-end street system” does not include street systems, where more than one street connection to the roadway network is made by roadway construction, or is planned by dedication of right-of-way, or where other permanent reservations are made for future street extension to the roadway network.

“Collector street” means a roadway that carries local traffic from local streets to arterial streets within the city. Collectors also serve local community uses and serve as circulation magnets for local streets. Local public transit may use collector streets.

“Co-location” means the placement of an antenna on an existing wireless communication facility, building, water tower, utility pole, where the antennas and all supports are located on an existing structure.

“Commercial parking facility” means a parking structure, surface, or below-grade parking lot, for which a charge or fee is assessed for parking. Commercial parking facilities provide parking that is not accessory to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.

“Commercial recreation” means an establishment where people pay for recreation including such types as health center, places with court games, dance halls, places with machine games, and so forth.

“Congregate housing facility” means a multidwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premise supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all R-zones which permit multifamily apartments and require conditional use approval in those R-zones which allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.

“Constructed wetlands” means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

“Corridor design plan” means a plan which establishes special development standards along a transportation corridor. A corridor design plan is adopted as part of the comprehensive plan and is implemented through overlay zones.

“Cupola” means an ornamental or functional structure placed on a roof or dome mimicking or functioning as a lantern, belfry, or belvedere.

“Daycare center” means any facility, institution, establishment, or place not a part of a school as defined in this section and not meeting the definition of family daycare, that provides daycare to children

not of common parentage, including day nurseries, nursery schools, preschools, daycare facilities, or similar units operating under any name for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

“Debris” means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

“Department of Environmental Quality (DEQ) Water Quality Standards” means the numerical criteria or narrative condition needed in order to protect an identified beneficial use.

“Development” means any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Development does not include the following: a) Stream enhancement or restoration projects approved by cities and counties; b) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; and c) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

“Disturb” means man-made changes to the existing physical status of the land, which are made in connection with development. The following uses are excluded from the definition: enhancement or restoration of the Water Quality Resource Area; and planting native cover identified in the Milwaukie Native Plant List.

“Dormer” means a projecting structure built out from a sloping roof usually containing a window.

“Dormitory” means a room which is rented for sleeping purposes for more than four (4) persons.

“Downtown zones” means the five (5) zones that implement the downtown and riverfront land use framework plan—downtown storefront (DS), downtown commercial (DC), downtown office (DO), downtown residential (DR) and downtown open space (DOS).

“Drinking establishment” means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

“Drive-through facility” means a business activity involving buying or selling of goods, or the provision of services, where one of the parties conducts the activity from within a motor vehicle. Facilities usually associated with a drive-through are queuing lanes, service windows, service islands and service bays for vehicular use.

“Dwelling” means a structure containing one or more dwelling units used, intended, or designed to be built, used, rented, let or hired out to be occupied, or which are occupied for living purposes. Dwelling

types are defined in this section.

“Dwelling unit” means one or more rooms designed for occupancy by one family, but excluding a recreational vehicle:

1. “Single-family attached” means two (2) dwelling units, each occupied as a housekeeping unit, sharing common structural walls.
2. “Single-family detached” means a house or a manufactured home normally occupied by one family with no structural connection to adjacent units. The dwelling and lot are usually under single ownership.
3. “Multifamily apartment” means a single structure containing three (3) or more dwelling units, usually for rent, and sharing common structural walls.
4. “Multifamily condominium” means a single structure containing three (3) or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.
5. “Interior single-family attached, interior multifamily condominium” means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.
6. “Accessory dwelling” means a dwelling unit that is clearly incidental and subordinate to a detached single-family dwelling, located in a single-family structure designed for occupancy by a housekeeping unit, and not containing more than one (1) cooking facility. For the purpose of this definition “cooking facility” means an oven, stove, range or other device used or intended for the preparation or heating of food.
 - a. “Type 1 accessory dwelling” means an accessory dwelling unit not less than two hundred twenty-five (225) square feet gross floor area and not more than six hundred (600) square feet gross floor area and meeting the requirements of Section 19.404. For the purpose of this section, gross floor area is measured from the inside face of walls enclosing the unit including all storage space, closets, halls, stairwells and rooms.
 - b. “Type 2 accessory dwelling” means an accessory dwelling unit other than a type 1 accessory dwelling unit, as permitted by subsection 19.602.10.

“Eating establishment” means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

“Emergency” means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

“Enhancement” means the process of improving upon the natural functions and/or values of an area or

feature, which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

“Equipment cabinets” means an enclosed box or structure used to house equipment for the operation, maintenance, or repair of a wireless communication antenna.

“FAA approval” means demonstration of compliance with all applicable rules and regulations under the FAA’s jurisdiction.

“Facade” means all the wall planes of a structure as seen from one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.

“Facility” means a created or constructed structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

“Family” means any person or group of persons living within a single housekeeping unit as defined in this section.

“Family daycare” means a private residence occupied by the family daycare provider in all areas zoned for residential or commercial purposes and used as a home occupation by the provider for the care of fewer than thirteen (13) children, including children of the provider, regardless of full-time or part-time care status.

“Fence” means any artificially constructed barrier of any material or combination of materials erected for purpose of enclosing, protecting, or screening areas of land and uses thereon.

Fence, Sight-Obscuring. “Sight-obscuring fence” means a fence consisting of wood, metal, masonry, or similar materials, or an evergreen hedge or other evergreen planting, arranged in such a way as to obscure vision at least eighty percent (80%).

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are two (2) distinct parts to the flag lot; the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag.

“Flood management areas” means all lands contained within the one hundred (100) year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

“Floodway” means the channel of a stream and adjacent land areas which are required to carry and discharge flood waters or flood flows of a one hundred (100) year flood, as defined by the Corps of Engineers.

“Floodway fringe” means that land area which is outside of the stream floodway but is subject to periodic inundation by a one hundred (100) year flood, as defined by the Corps of Engineers.

“Floor area” means the sum of the gross horizontal area of the general floor of a building, measured from the exterior faces of the exterior walls, or from the centerline of walls separating two (2) buildings; but not including:

1. Attic space providing headroom of less than seven (7) feet;
2. Basement or cellar;
3. Uncovered steps or fire escapes;
4. Private garages, carports, or porches;
5. Accessory water towers or cooling towers; or
6. Accessory off-street parking or loading spaces.

“Floor area ratio” means the amount of building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of two (2) to one (1) means two square feet of floor area for every one square foot of site area. A developer may exclude public utility easements from the site area when calculating the floor area ratio for a site.

“Foster home” means any home maintained by a person licensed by the state to provide care, food, and lodging in such home for not more than ten (10) children, including his or her own children, under the age of eighteen (18) years and unaccompanied by a parent or guardian.

“Frontage” means property abutting on a street.

Grade, Ground Level. “Ground-level grade” means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within five (5) feet of a public sidewalk, the ground level shall be measured at the average sidewalk elevation.

“Greenway areas” means lands that lie along the Willamette River and major courses flowing into the Willamette River. Shown on the zoning map as the Willamette Greenway Overlay.

“Ground floor” means any floor with direct access to grade. A building or facility always has at least one ground floor, and may have more than one ground floor where a split-level entry has been provided or where a building is built into a hillside.

“Guyed tower” means a tower which is supported by the use of cables (guy wires).

“Hazardous materials” means materials defined by the Oregon Department of Environmental Quality as hazardous.

“High-impact commercial businesses” means any such use that generates substantial traffic, noise, light, irregular hours, or other negative impact on the community. Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and

motels.

“Home occupation” means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

“Horticulture” means the cultivation of plants, garden crops, trees or nursery stock.

“Hotel” means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

“Housekeeping unit” means a living arrangement within a dwelling unit in which a single common kitchen facility, laundry facility, living and dining rooms, and other general living areas of the dwelling, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

“Institutional campus” means a medical or educational institution and associated uses. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial and light industrial uses, major event entertainment, residential and other uses.

Institution, Higher Educational. “Higher educational institution” means a college or university, accredited by the state.

“Interior landscaping” means area(s) internal to a lot that is(are) devoted to buffer area(s) with plantings.

“Invasive non-native or noxious vegetation” means plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread into native plant communities.

“Junkyard” means any establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles, or motor vehicle parts, iron, steel, or other scrap or old ferrous or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

“Kennel” means any lot or premises on which four (4) or more dogs, more than four (4) months of age, are kept.

“Kitchen facility” means an area in which something is built, installed, or established to prepare food for eating by a heating process.

“Landscaping” means vegetation and materials including but not limited to shrubs, grass, trees, planting beds and bark dust.

“Lantern” means a superstructure crowning a roof or dome having open or windowed walls to let in light and air.

“Lattice tower” means a tower characterized by an open framework of lateral cross members, which stabilize the tower without the use of guy wires.

“Lease area” means the area of a parcel on which wireless communication facilities, antennas and equipment buildings are located.

“Limited use” means a use that is permitted subject to specific limitations as described in the zoning ordinance.

“Livestock” means domestic animals, such as cattle, horses, sheep, hogs or goats, raised for home use or for profit.

“Loading space” means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

“Local street” means a roadway that carries residential traffic within residential neighborhoods within the city. Local streets connect to other local streets or collector streets for greater access within or between neighborhoods. Local public transit may use local streets.

“Lot” means a plot, parcel, or area of land owned by or under the lawful control and in the lawful possession of one (1) distinct ownership.

Lot, Corner. “Corner lot” means a lot abutting on two (2) or more streets, other than an alley, at their intersection.

“Lot coverage” means the footprint of a building or buildings on a lot, measured from the outermost projection of the structure expressed as a percentage of the total lot area.

“Lot depth” means the average horizontal distance between the front lot line and the rear lot line.

Lot, Interior. “Interior lot” means a lot other than a corner lot.

“Lot line” means the property line bounding a lot:

1. Lot Line, Front. “Front lot line” means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; and in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face.

2. Lot Line, Rear. “Rear lot line” means a lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular or other-shaped lot, a line ten (10) feet in length within

the lot parallel to and at the maximum distance from the front lot line.

3. Lot Line, Side. “Side lot line” means any lot line not a front or rear lot line.

Lot, Through. “Through lot” means an interior lot having frontage on two (2) streets.

“Lot width” means the horizontal distance between side lot lines measured at the building line.

“Major arterial street” means a roadway that serves as a regional facility that carries both local and through traffic to destinations within and outside of the city. Public transit serving other communities and different points in the region may use these streets.

“Manufactured dwelling” means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, and that is being used for residential purposes.

“Manufactured dwelling park” means a lot, tract, or parcel of land under one ownership, the primary purpose of which is to rent space for placement of a manufactured dwelling. A manufactured dwelling park shall contain a minimum of two (2) acres, and a minimum of four (4) manufactured dwellings.

“Manufactured home” means a single-family residential structure as defined in ORS 446.003(25)(a) (C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

“Minimum vegetation” means the area of a lot that supports plantings or natural growth, grass, shrubs, measured as a percentage of lot area including planted areas under roof eaves.

“Minor arterial street” means a roadway that carries local traffic from collector streets to regional facilities within the city. Minor arterials provide access to community uses and to neighborhoods within the city. Public transit serving other communities and different points in the region may use these streets.

“Mitigation” means the reduction of adverse effects of a proposed project by considering, in the order: a) minimizing impacts by limiting the degree or magnitude of the action and its implementation; b) rectifying the impact by repairing, rehabilitating or restoring the affected environment; c) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and d) compensating for the impact by replacing or providing comparable substitute water quality resource areas.

“Mobile home” means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

“Monopole” means a single upright pole engineered to be self-supporting without lateral cross supports or guy wires and used as an antenna support structure.

“Motel or tourist court” means one or more buildings designed or used as temporary living quarters for transients.

“Native vegetation” means any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant List.

“Neighborhood street” means a roadway that moves local traffic in and out from residential areas to arterials and collectors. Neighborhood streets are similar to local streets in design (with residential frontage), but carry more traffic and are commonly used by local residents. Neighborhood streets do not provide citywide circulation, but mainly serve an immediate neighborhood. Because their traffic levels are greater than local streets and potential speeding can be higher, neighborhood traffic management techniques can be appropriate.

“Net acre” means an area measuring forty-three thousand five hundred sixty (43,560) square feet excluding the following: rights-of-way; floodplains; protected water features; natural resource areas protected under statewide planning Goal 5; slopes in excess of twenty-five percent (25%); and publicly owned land designated for park, open space and resource protection.

“Nonconforming structure or use” means a lawful existing structure or use, at the time the ordinance codified in this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Office, Professional and Administrative. “Professional and administrative office” means professional, executive, management, or administrative offices of firms or organizations. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

“Off-street parking” means space located outside of any street right-of-way that is designed to accommodate the parking of motorized and nonmotorized vehicles.

“Open space” means any parcel of land or portion of a parcel without a structure, except as used and defined in the planned development zone.

“Ordinary mean high water line” means as the elevation on the bank or shore to which water ordinarily rises in season.

“Ordinary mean low water line” means the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water.

“Owner” includes an authorized agent of the owner.

“Parking space” means an area available for the parking of a standard American automobile or compact size.

“Perennial streams” means all primary and secondary perennial waterways mapped by the U.S.

Geological Survey.

“Pergola” means an unenclosed and unroofed structure of parallel columns supporting an open roof of beams and crossing rafters or trellis work.

“Perimeter landscaping” means an area around the edge of a lot that is devoted to a buffer area with plantings.

“Person” means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

“Personal/business services” means the provision of services to individuals or businesses. Typical uses include laundromats/dry cleaners, tanning salons, barbers, beauty salons, shoe repair, copy centers, secretarial services and blueprint services.

“Physical characteristics” means the physical, natural, and/or manmade features characteristic to a property or properties including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill and embankments.

“Planning director’s interpretation” means a ruling of the planning director regarding the applicability, scope, or effect of any provision of Titles 14, 17 and this title.

“Plaza” means an area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas, typically provided with amenities such as seating, drinking and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

“Pleasure craft” means a motorized or nonmotorized boat, canoe, kayak or other similar vessel that is used for private aquatic recreational uses.

“Post-construction erosion control” means re-establishing groundcover or landscaping prior to the removal of temporary erosion control measures.

“Poultry” means domestic fowl, such as chickens, turkeys, ducks or geese, raised for flesh or eggs.

“Preapplication conference” means a meeting between community development department staff and an applicant or property owner. It provides for an exchange of information regarding applicable requirements of city codes, makes available technical assistance which will aid in the development of an application, and attempts to identify procedures, policies, and regulations that may pose opportunities or constraints for a proposal.

“Prefabricated construction” (modular units) means a structural unit, conforming to the Uniform Building Code, that has been wholly or in part prefabricated at an off-site location and brought by trailer to the site for assembly.

“Primary entrance” means the entrance to a building that most pedestrians are expected to use.

Generally, each building has one (1) primary entrance. Primary entrances are the widest entrances of those provided for use by pedestrians. In multitenant buildings, primary entrances open directly into the building's lobby or principal interior ground-level circulation space. When a multitenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a primary entrance. In single-tenant buildings, primary entrances open directly into lobby, reception, or sales areas.

“Protected water features”:

Primary protected water features includes:

- a. Title 3 wetlands; and
- b. Rivers, streams and drainages downstream from the point at which one hundred (100) acres or more are drained to that water feature (regardless of whether it carries year-round flow); and
- c. Streams carrying year-round flow; and
- d. Springs which feed streams and wetlands and have year-round flow, and
- e. Natural lakes.

“Secondary protected water features” includes intermittent streams and seeps downstream of the point at which fifty (50) acres are drained and upstream of the point at which one hundred (100) acres are drained to that water feature.

“Public area requirements” means specific standards for streets, sidewalks and public spaces adopted to implement the downtown and riverfront land use framework plan.

“Public park” means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation, or management of the Milwaukie community services department.

“Railroad facilities” means railroad switching yards, terminal structure, railroad tracks or any other facilities connected with railroads which generate substantial noise or nuisance.

“Recreational vehicle” means a vehicular-like, portable structure which can be towed, hauled, or driven and is primarily designed for temporary living accommodations for recreational camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers and recreational vans.

“Residential home” means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for the elderly, disabled, handicapped or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.

“Residential trailer” means a manufactured dwelling that was constructed prior to January 1, 1962.

“Restoration” means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities re-establish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity.

“Retail trade” means the sale, lease, or rental of new or used products to the general public. Typical uses include, but are not limited to, grocery stores, specialty stores, drugstores, bookstores, jewelry stores, and video stores.

“Riparian” means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

“Routine repair and maintenance” means activities directed at preserving an existing allowed use or facility including replacement of materials, but excluding any increases in the existing dimensions of the structure.

School, Commercial. “Commercial school” means a place where instruction is given to pupils in arts, crafts, trades or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.

School, Primary, Elementary, Junior High, or High. “Primary, elementary, junior high or high school” means and includes public, private, or parochial; but not nursery school, kindergarten, or day nursery, except when operated in conjunction with a school.

“Second-floor housing” means a residential use that is located on or above the second floor of a building, with the ground floor of the building devoted to nonresidential use (such as, but not limited to, retail or office use).

“Senior and retirement housing” means a multiunit dwelling where persons who are of retirement age reside. Activity levels including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium. The dwelling units shall not have more than one bedroom per unit and shall not have more than eight hundred (800) square feet per dwelling unit.

“Shared parking” means the same off-street parking area is identified by one or more uses for the parking needs of employees, customers, and/or residents.

“Significant negative impact” means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.

“Specified anatomical areas” means and includes any of the following:

1. Less than completely and opaquely covered genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Specified sexual activities” means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in subsections 1 through 3 of this definition.

“Stealth Design” means a wireless communication facility that is designed or located in a such a way that the facility is not readily recognizable as wireless communication equipment and is compatible with surrounding uses.

“Steep slopes” means slopes that are equal to or greater than twenty-five percent (25%).

“Stormwater pre-treatment facility” means any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

“Story” means portion of a building between any floor and the next floor above. If the floor level directly above a basement or unused under-floor space is more than six (6) feet above grade for more than fifty percent (50%) of the total perimeter or is more than ten (10) feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

Story, Half. “Half story” means a story under a gable, gambrel, or hip roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than six (6) feet above grade, for more than fifty percent (50%) of the total perimeter or is not more than ten (10) feet above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

“Stream” means a body of running water moving over the earth’s surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams.

“Street” means the entire width between the right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms “road,” “highway,” “lane,” “place,” “avenue,” “alley” and other similar designations.

“Structure” means something constructed or built and having a fixed base or fixed connection to the ground or another structure. (Streets and utilities are excluded from this definition.)

“Structured parking” means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure to or transitional services to families or individuals, including lodging where the average stay is sixty (60) days or less. Such facilities shall be classified as community service uses and may include

shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.

“Substantial redevelopment” means any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty percent (50%) of the real market value of site improvements as determined by the county assessor. The development permit value includes all labor and material costs associated with the proposed construction. The building official shall determine the value of the development permit.

“Temporary or transitional facility” means a facility which may provide temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

“Title 3 Wetlands” means wetlands as shown on the water quality resource area map and other wetlands added to city or county adopted water quality resource area maps consistent with the criteria in Metro Urban Growth Management Functional Plan Title 3 Section 3.

“Tower” means a structure with the sole purpose of serving as an antenna support structure. “Tower” includes guyed towers, lattice towers and monopoles, but does not include any alternative antenna support structure.

“Townhouse” means an attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Townhouses on interior lots may have a zero side yard setback. A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.

“Transit stop” means a site designated by Tri-Met as the location at which a Tri-Met bus or light rail train will accept or discharge passengers.

“Transit street” means a street with existing transit service operating at twenty (20) minute-or-less peak hour frequency.

“Transition area” means an area where new multifamily projects in R-3, R-2, and R-1 zones that are adjacent to areas designated for lower densities have required transition measures.

“Trellis” means an unenclosed and unroofed vertical frame supporting open latticework used as a screen or support for growing vines or other plants.

“Use” means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

“Utility facilities” means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pre-treatment facilities.

“Vegetated corridor” means the area of setback between the top of the bank of a protected water feature and the delineated edge of the water quality resource area as defined in Table 1.

“Vegetation” means plantings or natural growth including trees, grass, shrubs, and other similar vegetated groundcover.

“Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

“Walkway” means a pedestrian-only corridor that is paved with a hard surface material and connects pedestrians from parking areas to uses, between uses, and to sidewalks on adjacent public streets. Walkways are separated from parking areas and internal driveways to promote pedestrian safety.

“Water quality and floodplain management area” means the area that identifies where the water quality resource area and floodplain management area overlay zone is applied.

“Water quality facility” means any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales and ponds that are maintained as stormwater quality control facilities.

“Water quality resource areas” means vegetated corridors and the adjacent water feature as established in Chapter 322.

“Watershed” means a geographic unit defined by the flows of rainwater or snowmelt.

“Wetlands” means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

“Wireless Communication Facility (WCF)” means a facility that is designed and used for the purpose of transmitting, receiving, and relaying radio waves of various wireless communication devices. A wireless communication facility normally includes one or more of the following:

1. Antennas
2. An antenna support structure
3. An equipment cabinet.

“Yard” means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title:

1. Yard, Front. “Front yard” means a yard between side lot lines, and measured horizontally at right

angles to the front lot line from the lot line to the nearest point of the building.

2. Yard, Rear. “Rear yard” means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right to the rear lot line from the rear lot line to the nearest point of a main building.

3. Yard, Side. “Side yard” means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building.

4. Yard, Street Side. “Street side yard” means a yard adjacent to a street between the front yard and the rear lot line, measured horizontally and at right angles from the side lot to the nearest point of the building. (Ord. 1912 (Attach. 1), 2002; Ord. 1910 (Attach. 1), 2002; Ord. 1907 (Attach. 2), 2002; Ord. 1893 (part), 2001; Ord. 1880 (part), 2000)

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A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this title permits. (Ord. 1880 (part), 2000)

[19.202 Classification of zones.](#)

For the purposes of this title, the following zones are established in the city:

Zone Description	Abbreviated Description
Residential	R-10
Residential	R-7
Residential	R-5
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential—Business Office—Commercial	R-1-B
Residential	R-1
Residential—Office—Commercial	R-O-C
Commercial, Neighborhood	C-N
Commercial, Limited	C-L
Commercial, General	C-G
Downtown Storefront	DS
Downtown Commercial	DC

Downtown Office	DO
Downtown Residential	DR
Downtown Open Space	DOS
Manufacturing	M
Commercial, Community Shopping	C-CS
Mixed Use Overlay	MU
Aircraft Landing Facility	L-F
Planned Development	PD
Willamette Greenway	WG
Community Service Overlay	CSO
Natural Resource Overlay	NR
Historic Preservation Overlay	HP
Business Industrial	BI

(Ord. 1880 (part), 2000)

[19.203 Location of zones.](#)

The boundaries for the zones established in this title are indicated on a map entitled “Zoning Map of Milwaukie, Oregon,” which is adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference. (Ord. 1880 (part), 2000)

[19.204 Boundaries of zones.](#)

If a zone boundary as shown on the map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that this adjustment involves a distance not to exceed twenty feet from the mapped zone boundary. (Ord. 1880 (part), 2000)

[19.205 Zoning maps.](#)

A. A zoning map or zoning map amendments adopted by Section 19.203 of this chapter, or by an

amendment, shall be prepared by authority of the city planning commission or be a modification by the city council of a map or map amendment. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment.

B. A certified print of the adopted map or map amendment shall be maintained without change in the office of the city recorder as long as the ordinance codified in this chapter remains in effect. (Ord. 1880 (part), 2000)

[19.206 Zoning of annexed areas.](#)

Area annexed to the city shall be included within the boundaries of zones established in this title and in accordance with the appropriate comprehensive plan map designation. The planning commission shall recommend appropriate zoning to the city council which shall be adopted by ordinance. (Ord. 1880 (part), 2000)

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Chapter 19.300 USE ZONES

19.301 Residential zone R-10.

In an R-10 zone the following regulations shall apply:

19.301.1 Outright Uses Permitted. In an R-10 zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling;
- B. Residential home;
- C. Agricultural or horticultural use, provided that:
 1. A retail or wholesale business sales office is not maintained on the premises, and
 2. Poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot, nor on a lot less than one (1) acre, nor having less than ten thousand (10,000) square feet per head of livestock;
- D. Any other use similar to the above and not listed elsewhere.

19.301.2 Conditional Uses Permitted. In an R-10 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

- A. Temporary real estate office in a subdivision;
- B. Single-family attached dwelling;
- C. Senior and retirement housing;
- D. Type 2 accessory dwelling unit;
- E. Any other use similar to the above and not listed elsewhere.

19.301.3 Standards. In an R-10 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least ten thousand (10,000) square feet, and the lot area shall be not less than an average of seven thousand (7,000) square feet for dwelling of a single-family attached complex. Lot width shall be at least thirty (30) feet for an interior single-family attached unit. Average lot depth shall be at least one hundred (100) feet. Lot width shall be at least seventy (70) feet.
- B. Front yard: A front yard shall be at least twenty (20) feet.
- C. Side yard: A side yard shall be at least ten (10) feet, except on corner lots a side yard shall be at least twenty (20) feet on the side abutting the street. For interior single-family attached units, side yards

are not required.

D. Rear yard: A rear yard shall be at least twenty (20) feet.

E. (Repealed by Ord. 1893)

F. Off-street parking and loading: As specified in Chapter 19.500.

G. Height restriction: Maximum height of a structure shall be two and one-half (2 1/2) stories or thirty-five (35) feet, whichever is less.

H. Lot coverage: Maximum area that may be covered by one dwelling structure and accessory buildings shall not exceed thirty percent (30%) of the total area of the lot.

I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. will be thirty-five percent (35%) of the total area of the lot.

J. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet except as provided in the subdivision ordinance. The lot for an interior single-family attached unit shall abut a public street for at least twenty (20) feet.

K. Minimum density: Minimum development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least three and five tenths (3.5) to four and four tenths (4.4) dwelling units per net acre.

L. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

[19.302 Residential zone R-7.](#)

In an R-7 zone the following regulations shall apply:

19.302.1 Outright Uses Permitted. In an R-7 zone the following uses and their accessory uses are permitted outright:

A. Single-family detached dwelling;

B. Residential home;

C. Agricultural or horticultural use, provided that:

1. A retail or wholesale business sales office is not maintained on the premises, and

2. Poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot nor on a lot less than one (1) acre, nor having less than ten thousand (10,000) square feet per head of livestock;

D. Any other use similar to the above and not listed elsewhere.

19.302.2 Conditional Uses Permitted. In an R-7 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

- A. Temporary real estate office in a subdivision;
- B. Single-family attached dwelling;
- C. Senior and retirement housing;
- D. Type 2 accessory dwelling unit;
- E. Any other use similar to the above and not listed elsewhere.

19.302.3 Standards. In an R-7 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least seven thousand (7,000) square feet. For a single-family attached complex the lot area shall be an average of at least seven thousand (7,000) square feet per unit. Lot width shall be at least sixty (60) feet. The minimum lot width shall be thirty (30) feet for interior single-family attached units. Average lot depth shall be at least eighty (80) feet.
- B. Front yard: A front yard shall be at least twenty (20) feet.
- C. Side yard: A side yard shall be at least five (5) feet and one side yard shall be at least ten (10) feet, except on corner lots a side yard shall be at least twenty (20) feet on the side abutting the street. For interior single-family attached units, side yards are not required.
- D. Rear yard: A rear yard shall be at least twenty (20) feet.
- E. (Repealed by Ord. 1893)
- F. Off-street parking and loading: As specified in Chapter 19.500.
- G. Height restriction: Maximum height of a structure shall be two and one-half (2 1/2) stories or thirty-five (35) feet, whichever is less.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed thirty percent (30%) of the total area of the lot.
- I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. will be thirty percent (30%) of the total area of the lot.
- J. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet, except as provided in the subdivision ordinance.
- K. Minimum density: Minimum development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 5.0 to 6.2 dwelling units per net acre.
- L. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

19.303 Residential zone R-5.

In an R-5 zone the following regulations shall apply:

19.303.1 Outright Uses Permitted. In an R-5 zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling;
- B. Single-family attached dwelling;
- C. Residential home;
- D. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises, and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot, nor on a lot less than one (1) acre, nor having less than ten thousand (10,000) feet per head of livestock;
- E. Any other use similar to the above and not listed elsewhere.

19.303.2 Conditional Uses Permitted. In an R-5 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

- A. Temporary real estate office in a subdivision;
- B. Senior and retirement housing;
- C. Type 2 accessory dwelling unit;
- D. Any other use similar to the above and not listed elsewhere.

19.303.3 Standards. In an R-5 zone the following standards shall apply:

A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least five thousand (5,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached dwellings the lot width shall be at least thirty (30) feet. Average lot depth shall be at least eighty (80) feet.

B. Front yard: A front yard shall be at least twenty (20) feet.

C. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two stories or twenty-five (25) feet, whichever is less, except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street. For interior, single-family attached dwellings side yards are not required.

D. Rear yard: A rear yard shall be at least twenty (20) feet.

E. (Repealed by Ord. 1893)

F. Off-street parking and loading: As specified in Chapter 19.500.

G. Height restriction: Maximum height of a structure shall be two and one-half stories or thirty-five (35) feet, whichever is less.

H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed thirty-five percent (35%) of the total area of the lot.

I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. will be twenty-five percent (25%) of the total area of the lot.

J. Transition area: A transition area shall be maintained according to Section 19.416.

K. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet, except as provided in the subdivision ordinance. The lots for interior single-family attached units shall abut a public street for at least twenty (20) feet.

L. Minimum density: Minimum development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 7.0 to 8.7 dwelling units per net acre.

M. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

19.304 Residential zone R-3.

In an R-3 zone the following regulations shall apply:

19.304.1 Outright Uses Permitted. In an R-3 zone the following uses and their accessory uses are permitted outright:

A. Single-family, detached dwelling;

B. Agricultural or horticultural use, provided that:

1. A retail or wholesale business sales office is not maintained on the premises, and

2. Poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot, nor on a lot less than one (1) acre, nor having less than ten thousand (10,000) square feet per head of livestock;

C. Single-family attached dwelling;

D. Residential home;

E. Any other uses similar to the above and not listed elsewhere.

19.304.2 Conditional Uses Permitted. In an R-3 zone the following conditional uses and their accessory uses are permitted subject to provisions of Chapter 19.600:

A. Temporary real estate office in a subdivision;

B. Boarding, lodging, or rooming house;

C. Senior and retirement housing;

D. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists and others of a professional nature whose activities generate a minimal amount of traffic;

E. Multifamily condominium or apartment dwelling;

F. Type 2 accessory dwelling unit;

G. Congregate housing facility;

H. Any other uses similar to the above and not listed elsewhere.

19.304.3 Standards. In an R-3 zone the following standards shall apply:

A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least three thousand (3,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached units the lot width shall be at least thirty (30) feet. Average lot depth shall be at least eighty (80) feet.

B. Front yard: A front yard shall be at least fifteen (15) feet.

C. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two (2) stories or twenty-five (25) feet, whichever is less, except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street. For interior single-family attached and condominium units, side yards are not required.

D. Rear yard: A rear yard shall be at least fifteen (15) feet.

E. (Repealed by Ord. 1893)

F. Off-street parking and loading: As specified in Chapter 19.500.

G. Height restriction: Maximum height of a structure shall be two and one-half (2 1/2) stories or thirty-five (35) feet, whichever is less.

H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed forty percent (40%) of the total area of the lot.

I. Minimum vegetation and open space: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, or left as open space or used as recreational area, etc. will be thirty-five percent

(35%) of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.

J. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet, except as provided in the subdivision ordinance. Lots for interior single-family attached units will abut a public street for at least twenty (20) feet.

K. Transition area: A transition area shall be maintained according to Section 19.416.

L. Minimum density: Minimum development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 to 14.5 dwelling units per net acre.

M. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

19.305 Residential zone R-2.5.

In an R-2.5 zone the following regulations shall apply:

19.305.1 Permitted Uses.

- A. Single-family dwelling;
- B. Single-family attached dwelling;
- C. Residential home;
- D. Agricultural or horticultural uses, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises, and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot, nor on a lot less than one (1) acre, nor having less than ten thousand (10,000) square feet per head of livestock;
- E. Any other use similar to the above and not listed elsewhere.

19.305.2 Conditional Uses.

- A. Boarding, lodging, or rooming house;
- B. Senior and retirement housing;
- C. Multifamily condominium or apartment;
- D. Congregate housing facility;
- E. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists and others of a professional nature whose activities generate a minimal amount of traffic;
- F. Any other use similar to the above and not listed elsewhere.

19.305.3 Standards. In an R-2.5 zone the following standards shall apply:

A. Lot Size. Single-family dwellings: Three thousand (3000) square feet. Attached dwellings: Two thousand five hundred (2500) square feet average per unit.

B. Lot Dimensions. Width at building line, measured at front setback: (1) single-family dwelling — forty feet; (2) attached dwellings — twenty-five (25) feet. Depth for all types of uses: Seventy-five (75) feet.

C. Setbacks. Front yard: fifteen (15) feet. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two (2) stories or twenty-five (25) feet, whichever is less, except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street. For interior single-family attached and condominium units, side yards are not required.

D. Height of structure: Maximum height shall not exceed thirty-five (35) feet.

E. Parking: As specified in Chapter 19.500.

F. Lot coverage: Forty percent (40%) maximum.

G. Minimum vegetation and open space: Thirty-five percent (35%) of the lot must be planted in trees, grass, shrubs, barkdust for planting beds, or left as open space, or used as recreational area. At least half of this area will be of the same general character as the area with the dwelling units.

H. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet, except as provided in the subdivision ordinance, and attached residential lots which shall abut a public street for at least twenty (20) feet.

I. Transition area: A transition area shall be maintained according to Section 19.416.

J. Minimum density: Minimum development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 to 17.4 dwelling units per net acre.

K. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

[19.306 Residential zone R-2.](#)

In an R-2 zone the following regulations shall apply:

19.306.1 Outright Uses Permitted. In an R-2 zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling;
- B. Residential home;
- C. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises, and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot, nor on a lot less than one (1) acre, nor having less than ten thousand (10,000) square feet per head of livestock;
- D. Single-family attached, multifamily condominiums, multifamily apartment dwellings;
- E. Congregate housing facility;
- F. Any other use similar to the above and not listed elsewhere.

19.306.2 Conditional Uses Permitted. In an R-2 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

- A. Boarding, lodging, or rooming house;
- B. Senior and retirement housing;
- C. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists and others of a professional nature whose activities generate a minimal amount of traffic, except in transitional areas;
- D. Hotel or motel;
- E. Marina;
- F. Type 2 accessory dwelling unit;
- G. Any other use similar to the above and not listed elsewhere.

19.306.3 Standards. In an R-2 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than an average of two thousand five hundred (2500) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. For interior single-family attached and condominium units lot width shall be at least thirty (30) feet. Average lot depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, and multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.
- B. Front yard: A front yard shall be at least fifteen (15) feet.
- C. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two (2) stories or twenty-five (25) feet, whichever is less,

except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street. For interior single-family attached and condominium units, side yards are not required.

D. Rear yard: A rear yard shall be at least fifteen (15) feet.

E. (Repealed by Ord. 1893)

F. Off-street parking and loading: As specified in Chapter 19.500.

G. Height restriction: Maximum height of a structure shall be three (3) stories or forty-five (45) feet, whichever is less.

H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed forty-five percent (45%) of the total area of the lot.

I. Minimum vegetation and open space: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, or left as open space or used as recreational area, etc. will be thirty-five percent (35%) of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.

J. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five feet, except as provided in the subdivision ordinance. Lots for interior single-family attached and condominium units shall abut a public street for at least twenty (20) feet.

K. Transition area: A transition area shall be maintained according to Section 19.416.

L. Minimum density: Minimum development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 to 17.4 dwelling units per net acre.

M. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

19.307 Residential—Business office—Commercial zone R-1-B.

In an R-1-B zone the following regulations shall apply:

19.307.1 Outright Uses Permitted. In an R-1-B zone the following uses and their accessory uses are permitted outright:

A. Single-family detached dwelling;

B. Agricultural or horticultural use, provided that:

1. A retail or wholesale business sales office is not maintained on the premises, and

2. Poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot, nor on a lot less than one (1) acre, nor having less than ten

thousand (10,000) square feet per head of livestock;

- C. Single-family attached dwelling;
- D. Residential home;
- E. Condominium, multifamily condominium and multifamily apartment dwellings;
- F. Congregate housing facility;
- G. Senior and retirement housing;
- H. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists and others whose activities generate a minimal amount of traffic;
- I. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations whose activities generate a minimal amount of traffic;
- J. Any other use similar to the above and not listed elsewhere.

19.307.2 Conditional Uses Permitted. In an R-1-B zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

- A. Temporary real estate office in a subdivision;
- B. Boarding, lodging, or rooming house;
- C. Hotel or motel;
- D. Marina;
- E. Any other use similar to the above and not listed elsewhere.

19.307.3 Standards. In an R-1-B zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for each dwelling unit over one there shall be not less than an average of one thousand four hundred (1400) square feet. Lot width shall be at least fifty (50) feet. For interior single-family attached and condominium units this lot width shall be at least thirty (30) feet.
- B. Front yard: A front yard shall be at least fifteen (15) feet.
- C. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two (2) stories or twenty-five (25) feet, whichever is less, except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street.
- D. Rear yard: A rear yard shall be at least fifteen (15) feet.
- E. (Repealed by Ord. 1893)

F. Off-street parking and loading: As specified in Chapter 19.500.

G. Height restriction: Maximum height of a structure shall be three (3) stories or forty-five (45) feet, whichever is less.

H. Lot coverage: Maximum area that may be covered by the principal structure and accessory buildings shall not exceed fifty percent (50%) of the total area of the lot.

I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, etc. shall be fifteen (15%) percent of the total area of the lot.

J. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet, except as provided in the subdivision ordinance. Lots for interior single-family attached and condominium units shall abut a public street for at least twenty (20) feet.

K. Transition area: A transition area shall be maintained according to Section 19.416.

L. Minimum density: Minimum residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) to thirty-two (32) dwelling units per net acre.

M. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

19.308 Residential zone R-1.

In an R-1 zone the following regulations shall apply:

19.308.1 Outright Uses Permitted. In an R-1 zone the following uses and accessory uses are permitted outright:

A. Single-family detached dwelling;

B. Agricultural or horticultural use, provided that:

1. A retail or wholesale business sales office is not maintained on the premises, and
2. Poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot, nor on a lot less than one (1) acre, nor having less than ten thousand (10,000) square feet per head of livestock;

C. Single-family attached, multifamily condominium, multifamily apartment dwelling;

(Note: The above type dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas)

D. Residential home;

- E. Senior and retirement housing;
- F. Congregate housing facility;
- G. Any other use similar to the above and not listed elsewhere.

19.308.2 Conditional Uses Permitted. In an R-1 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

- A. Temporary real estate office in a subdivision;
- B. Boarding, lodging or rooming house;
- C. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature whose activities generate a minimal amount of traffic, except in transitional areas;
- D. Hotel or motel;
- E. Marina;
- F. Any other use similar to the above and not listed elsewhere.

19.308.3 Standards. In an R-1 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than one thousand four hundred (1400) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. Lot width for single-family attached and condominium units shall be at least thirty (30) feet. Average lot depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.
- B. Front yard: A front yard shall be at least fifteen (15) feet.
- C. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two (2) stories or twenty-five (25) feet, whichever is less, except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street. For interior single-family attached and condominium units, side yards are not required.
- D. Rear yard: A rear yard shall be at least fifteen (15) feet.
- E. (Repealed by Ord. 1893)
- F. Off-street parking and loading: As specified in Chapter 19.500.
- G. Height restriction: Maximum height of a structure shall be three (3) stories or forty-five (45) feet, whichever is less.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory

buildings shall not exceed forty-five percent (45%) of the total area of the lot.

I. Minimum vegetation and open spaces: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, or left as open space or used as recreational area, etc. will be thirty-five percent (35%) of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.

J. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet, except as provided in the subdivision ordinance. Lots for interior single-family attached and condominium units shall abut a public street for at least twenty (20) feet.

K. Transition area: A transitional area shall be maintained according to Section 19.416.

L. Use restrictions: Authorized commercial uses are permitted on the ground floor only. Office uses are permitted on the ground level and first floor. At least fifty percent (50%) of the floor area within a project shall be used for residential purposes.

M. Minimum density: Minimum residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) to thirty-two (32) dwelling units per net acre.

N. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

[19.309 Residential—Office—Commercial zone R-O-C.](#)

In an R-O-C zone, the following regulations shall apply:

19.309.1 Outright Uses Permitted. In an R-O-C zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling;
- B. Single-family attached dwelling;
- C. Residential home;
- D. Multifamily condominium dwelling;
- E. Multifamily apartment dwelling;
- F. Congregate housing facility;
- G. Senior and retirement housing;
- H. Offices;
- I. Retail trade establishment such as a food store, drugstore, gift shop, hardware store selling

primarily from a shelf-goods inventory;

J. Personal service business such as a barber shop, tailor shop or laundry and dry cleaning pickup station;

K. Funeral home;

L. Commercial recreation and motion picture theater;

M. Eating establishment;

N. Hotel or motel;

O. Parking facility;

P. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;

Q. Financial institution;

R. Trade or commercial school;

S. Department or furniture store;

T. Any other use similar to the above and not listed elsewhere.

19.309.2 Conditional Uses Permitted. In an R-O-C zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

A. Boarding, lodging, or rooming house;

B. Any other use similar to the above and not listed elsewhere.

19.309.3 Standards. In an R-O-C zone the following standards shall apply:

A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand four hundred (1400) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. Average lot depth shall be at least eighty (80) feet.

B. Front yard: A front yard shall be at least fifteen feet.

C. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two (2) stories or twenty-five (25) feet, whichever is less, except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street. For interior single-family attached and condominium units, side yards are not required.

D. Rear yard: A rear yard shall be at least fifteen (15) feet.

E. (Repealed by Ord. 1893)

F. Off-street parking and loading: As specified in Chapter 19.500.

G. Height restriction: Maximum height of a structure shall be three (3) stories or forty-five (45) feet, whichever is less.

H. Use restrictions: Authorized commercial uses are permitted on the ground floor only. Office uses are permitted on the ground level and first floor. At least fifty percent (50%) of the floor area within a project shall be used for residential purposes.

I. Lot coverage: Maximum area that may be covered by the principal structure and accessory buildings shall not exceed fifty percent (50%) of the total area of the lot.

J. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be fifteen percent (15%) of the total area of the lot.

K. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet, except as provided in the subdivision ordinance. Lots for interior single-family attached and condominium units shall abut a public street for at least twenty (20) feet.

L. Transition area: A transition area shall be maintained according to Section 19.416.

M. Minimum density: Minimum residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) to thirty-two (32) dwelling units per net acre.

N. Transportation requirements and standards: as specified in Chapter 19.1400.

19.309.4 Prohibited Uses. The following uses and their accessory uses are prohibited:

A. Adult entertainment business. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

[19.310 Neighborhood Commercial zone C-N.](#)

In a C-N zone the following regulations shall apply:

19.310.1 Outright Uses Permitted. In a C-N zone the following uses and their accessory uses are permitted outright:

A. No uses permitted outright.

19.310.2 Conditional Uses Permitted. In a C-N zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

A. A food store not exceeding two thousand five hundred (2500) square feet of floor area;

B. A store providing convenience goods and services for a local area;

C. Laundry;

D. Eating establishment;

E. Any other use similar to the above and not listed elsewhere.

19.310.3 Standards. In a C-N zone the following standards shall apply:

A. Lot size: Lot area shall be at least five thousand (5,000) square feet but not greater than twenty-five thousand (25,000) square feet. Lot width shall be at least fifty (50) feet. Average lot depth shall be at least eighty (80) feet.

B. Front yard: A front yard shall be at least fifteen feet.

C. Side yard: A side yard shall be at least five (5) feet, and there shall be one (1) additional foot of side yard for each three (3) feet of height over two (2) stories or twenty-five (25) feet, whichever is less, except on corner lots a side yard shall be at least fifteen (15) feet on the side abutting the street.

D. Rear yard: A rear yard shall be at least ten (10) feet.

E. (Repealed by Ord. 1893)

F. Off-street parking and loading: As specified in Chapter 19.500.

G. Height restriction: Maximum height of a structure shall be two and one-half (2 1/2) stories or thirty-five (35) feet, whichever is less.

H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed forty percent (40%) of the total area of the lot.

I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, etc. shall be twenty percent (20%) of the total area of the lot.

J. Screening: Neighborhood commercial uses must be screened from adjacent residential uses.

K. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet.

L. Transportation requirements and standards: as specified in Chapter 19.1400.

19.310.4 Prohibited Uses. The following uses and their accessory uses are prohibited:

A. Adult entertainment business. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

[19.311 Limited Commercial zone C-L.](#)

In a C-L zone the following regulations shall apply:

19.311.1 Outright Uses Permitted. In a C-L zone the following uses and their accessory uses are permitted outright:

A. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists and others of a professional nature.

B. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations.

C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.

D. Personal service business such as a barber shop, tailor shop or laundry and dry cleaning pickup station.

E. Any other use similar to the above and not listed elsewhere.

19.311.2 Conditional Uses Permitted. In a C-L zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

A. Funeral home;

B. Marina and boat sales;

C. Parking facility;

D. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;

E. Financial institution;

F. Trade or commercial school;

G. Single-family detached dwelling;

H. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within one hundred (100) feet of any dwelling not on the same lot, nor on a lot less than one (1) acre, nor having less than ten thousand (10,000) square feet per head of livestock;

I. Single-family attached dwelling, multifamily apartment, and condominium dwelling;

J. Senior and retirement housing;

K. Residential home;

L. Congregate housing facility;

M. High-impact commercial, except adult entertainment businesses;

N. Any other use similar to the above and not listed elsewhere.

19.311.3 Standards. In a C-L zone the following standards shall apply:

A. Lot size: None, except as follows for dwelling: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand (1000) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. Average lot depth shall be at least eighty (80) feet.

B. Front yard: None, except as provided in subsections E and F below.

C. Side yard: None, except as provided in subsections E and F below.

D. Rear yard: None, except as provided in subsections E and F below.

E. (Repealed by Ord. 1893)

F. Transition area: A transition area shall be maintained according to Section 19.416.

G. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet except as permitted under the subdivision ordinance. Lots for interior single-family attached and condominium units shall abut a public street for at least twenty (20) feet.

H. Off-street parking and loading: As specified in Chapter 19.500.

I. Height restriction: Maximum height of any structure shall be three (3) stories or forty-five (45) feet, whichever is less.

J. Open use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, shall be screened with a sight-obscuring fence not less than six (6) feet high.

K. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be fifteen percent (15%) of the total area of the lot.

L. Transportation requirements and standards: as specified in Chapter 19.1400.

19.311.4 Prohibited Uses. The following uses and their accessory uses are prohibited:

A. Adult entertainment businesses. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

[19.312 Downtown zones.](#)

19.312.1 Purpose. This section of the zoning ordinance implements the downtown and riverfront land use framework plan, Milwaukie comprehensive plan, and Town Center master plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the downtown and riverfront land use framework plan, and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street. Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

19.312.2 Characteristics of the Downtown Zones. Five specific zones are adopted to implement the downtown and riverfront land use framework plan. The zones are shown on Figure 19.312-1. The “Zoning Map of Milwaukie, Oregon” provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the downtown and riverfront land use framework plan. The characteristics of the individual zones are described below.

A. **Downtown Storefront (DS).** The downtown storefront zone is established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business and residential uses. Retail uses are required on the ground floors of buildings fronting on Main Street. Office and/or residential uses are allowed on upper floors. Industrial uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A “Village Concept Area” has been established in the DS zone to allow a broader mix of uses on a city-owned site adjacent to the library, City Hall, a high-density residential area to the north, and existing Main Street storefront uses. These uses include townhouses and multifamily apartment/condominium buildings.

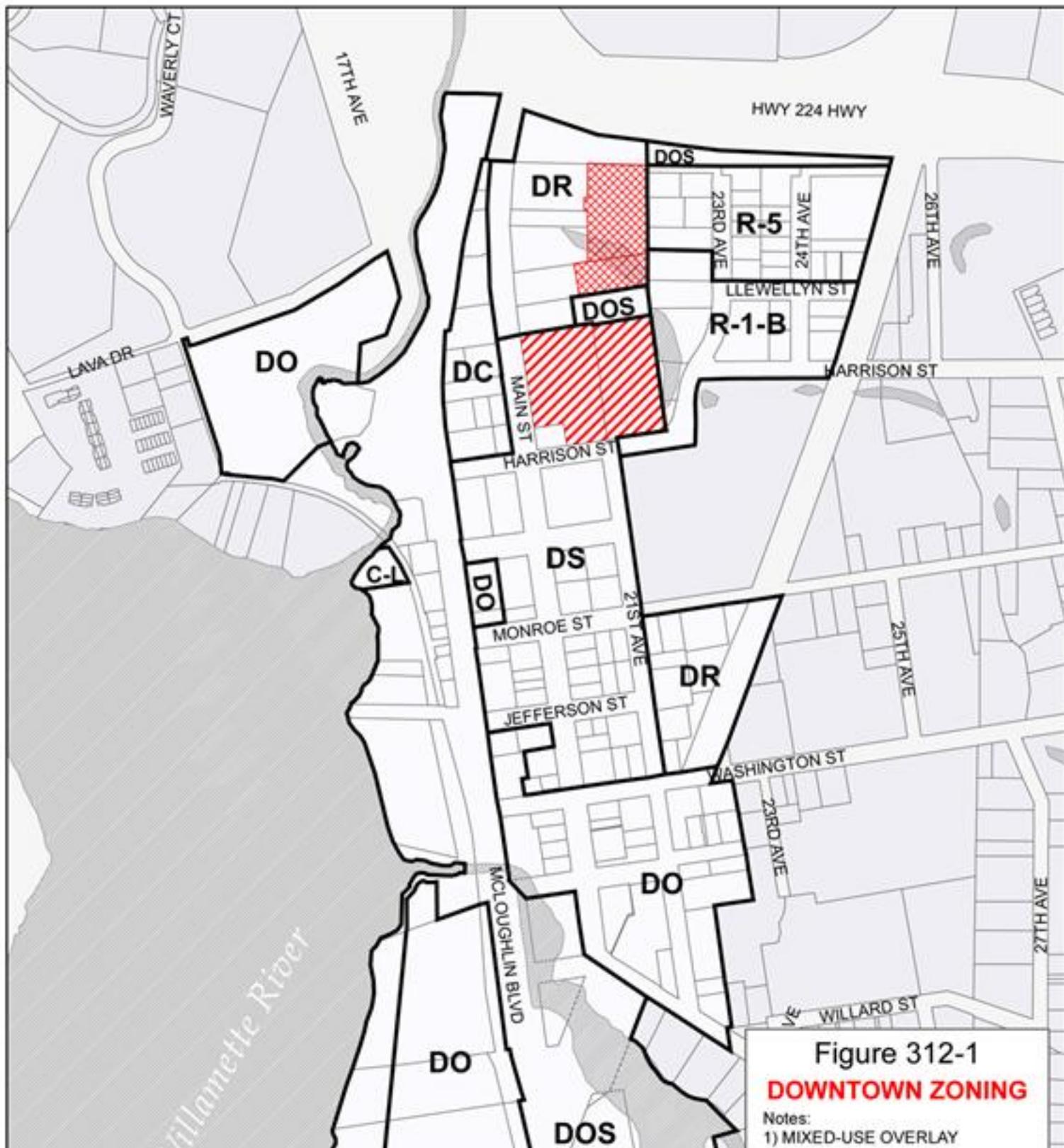
B. **Downtown Commercial (DC).** The downtown commercial zone is established to allow auto-accommodating commercial development in the area between McLoughlin Boulevard and Main Street, north of Harrison Street. A range of retail, service, office, and residential uses is permitted to support a gradual transition to higher densities and a greater mix of uses. Boulevard enhancements will improve the visual character of McLoughlin Boulevard and provide a link to the riverfront and adjacent downtown zones. The desired character for this zone includes buildings that engage at least one street right-of-way and include a pedestrian-oriented entry and well-landscaped parking lots.

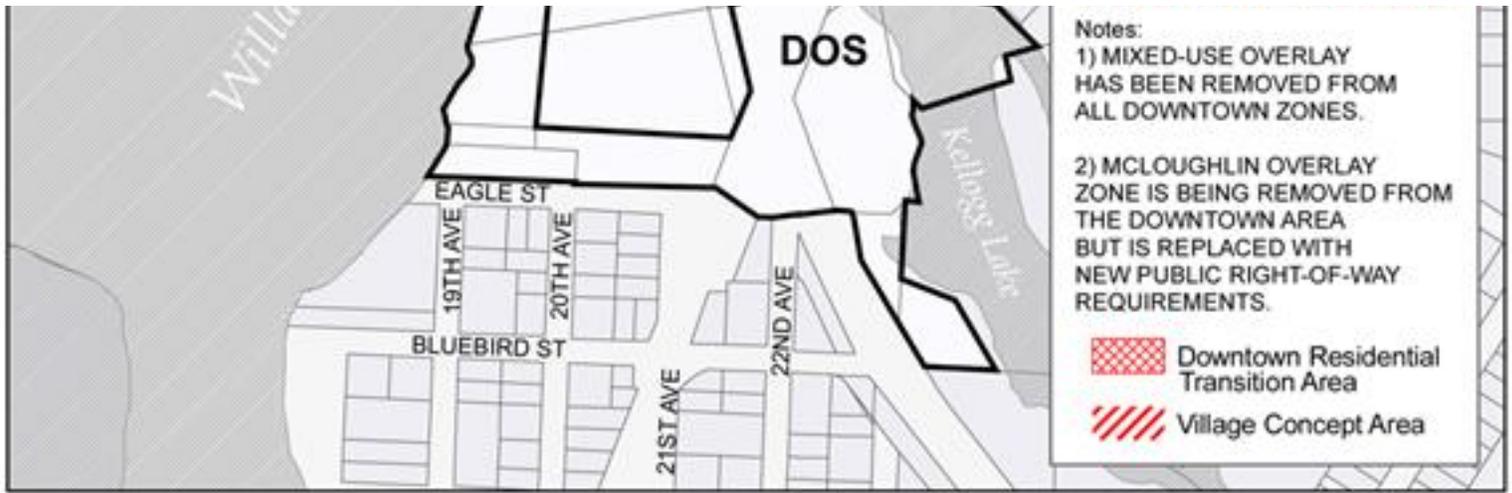
C. **Downtown Office (DO).** The downtown office zone is established to provide for office, entertainment, and hotel uses along high-visibility major arterial streets, as designated by the city of Milwaukie’s transportation system plan. Retail commercial uses are limited to support the primary uses (office, entertainment, and hotel establishments) and encourage retail development along Main Street. The desired character for this zone will vary depending on the nature of the proposed use and individual site features.

D. **Downtown Residential (DR).** The downtown residential zone is established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Minimum densities of thirty units per acre will assure that land is used efficiently and will increase the customer base for nearby businesses. Additionally, the higher densities will support urban features such as parking under structures and durable building materials. Development at minimum densities of ten units per acre up to a maximum of thirty units per acre will be permitted in a defined portion of the downtown residential zone to provide a transition to lower density residential zones. The desired character for the downtown residential zone includes buildings located close to and oriented to the public sidewalk, with off-street parking located under or internal to building sites.

E. **Downtown Open Space (DOS).** The downtown open space zone is established to implement the “Public” designation of the Milwaukie comprehensive plan and to provide a specific zone to

accommodate open space, park, and riverfront uses. The downtown open space zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the downtown open space zone includes parkland, open space, and riverfront amenities.





19.312.3 Uses.

A. Permitted Uses. Uses allowed in the downtown zones are listed in Table 19.312.3 with a “P.” These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

B. Limited Uses. Uses that are allowed subject to limitations are listed in Table 19.312.3 with an “L.” These uses are allowed if they comply with the limitations listed in subsection G below, and if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

C. Nonconforming Uses. Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800, Nonconforming Uses. For privately owned property with legal nonconforming uses and structures within the downtown open space zone, Section 19.803 is not applicable, but all other provisions of Chapter 19.800 shall apply.

D. Prohibited Uses. Uses listed in Table 19.312.3 with an “N” are prohibited as new uses.

E. Accessory Uses. Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in city parks and refreshment stands at the library.

F. Similar Uses. The planning director, through a Type I administrative review, may determine that a use that is not listed is considered similar to a listed use in Table 19.312.3. The unlisted use shall be subject to the standards applicable to the similar listed use.

Table 19.312.3
DOWNTOWN ZONES—USE TABLE

Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
Residential					
Single-family detached	N	N	N	N	N
Townhouse	L[1]	N	N	L[1]	N

Multifamily apartment/ condominium	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
Commercial/Office¹					
Automobile service station	N	N	N	N	N
Automobile repair	N	L[2]	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[3]	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
Industrial	N	N	N	N	N
Other					
Adult entertainment	N	N	N	N	N
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P
Transit centers	L[9]	L[9]	N	N	N
¹ Certain uses are permitted in the downtown storefront zone, but are not allowed in the required retail ground floor use area along Main Street (see Figure 19.312-2 and subsection 19.312.4(B)(7) for details).					

G. Limited Uses. The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an “L” in Table 19.312.3.

1. Townhouse development is permitted only in a limited area of the downtown residential zone as identified on the zoning map (see “Transitional Residential Area” on Figure 19.312-1). This limited use provision is intended to provide an opportunity for owned, attached housing at a minimum density of ten units per acre. Townhouse development is permitted only in a limited area of the downtown storefront zone as identified on the zoning map (see “Village Concept Area” on Figure 19.312-1). Townhouses shall not be located within fifty feet of the Main Street frontage within the “Village Concept Area.”

2. Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the downtown commercial zone when conducted within a completely enclosed building.

3. In the downtown office zone, eating and drinking establishments and retail trade uses are limited to five thousand square feet in floor area per use. These limited uses may only be developed as part of a mixed use building that supports a primary permitted use (e.g., office, hotel and financial institution).

4. In the portions of the downtown storefront zone where ground-floor retail/restaurant uses are required (see Figure 19.312-2), office uses are only allowed on or above the second floor.

5. Office, personal service, and retail trade uses in the downtown residential zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses are limited to the ground floor; and individual office, personal service, or retail uses may not exceed five thousand square feet in floor area. Home occupations are permitted in accordance with Section 19.425 of this title.

6. Parking facilities in the downtown open space zone are limited to surface lots.

7. In the portions of the downtown storefront zone where ground-floor retail/restaurant uses are required (see Figure 19.312-2), personal/business service uses are limited to a maximum of twenty-five percent of the ground floor area of an individual building.

8. New community service uses or expansion/alteration of an existing community service use in the downtown zones may be permitted if approved under Section 19.321 of this chapter and shall comply with the development and design standards of this section.

9. Transit centers shall comply with the public area requirements for transit centers.

10. Multifamily apartment/condominium building development is permitted only in a limited area of the downtown storefront zone as identified on the zoning map. See “Village Concept Area” on Figure 19.312-1.

19.312.4 Development Standards.

A. Purpose. The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.312.4 summarizes the development standards that apply in the downtown zones. Table 19.312.4 is supplemented by the explanation of the development standards provided in subsection B below, and the following figures:

Figure 19.312-2 — Required Retail Ground Floor Use Areas

Figure 19.312-3 — Maximum Building Heights

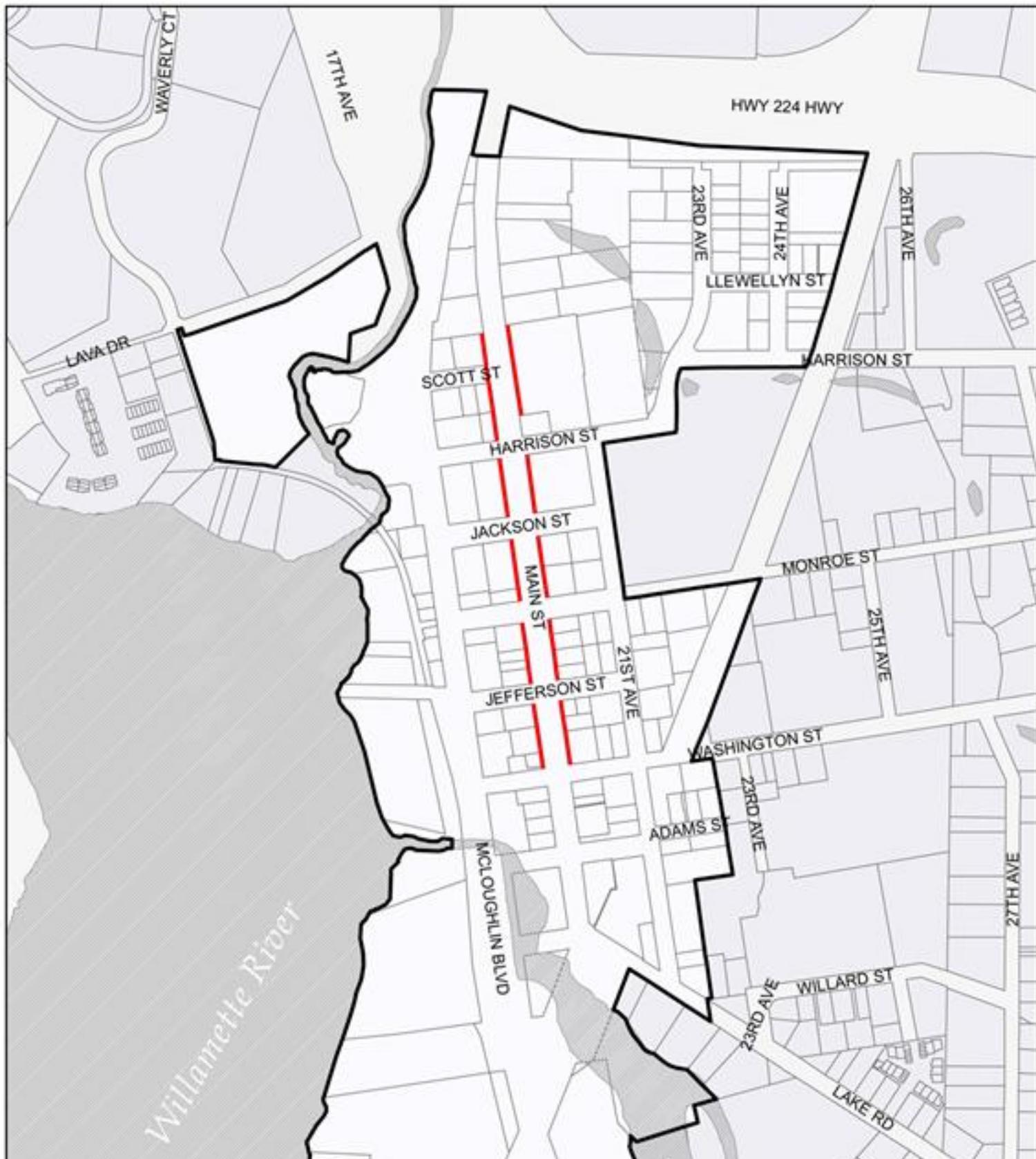
Figure 19.312-4 — Build-to Lines

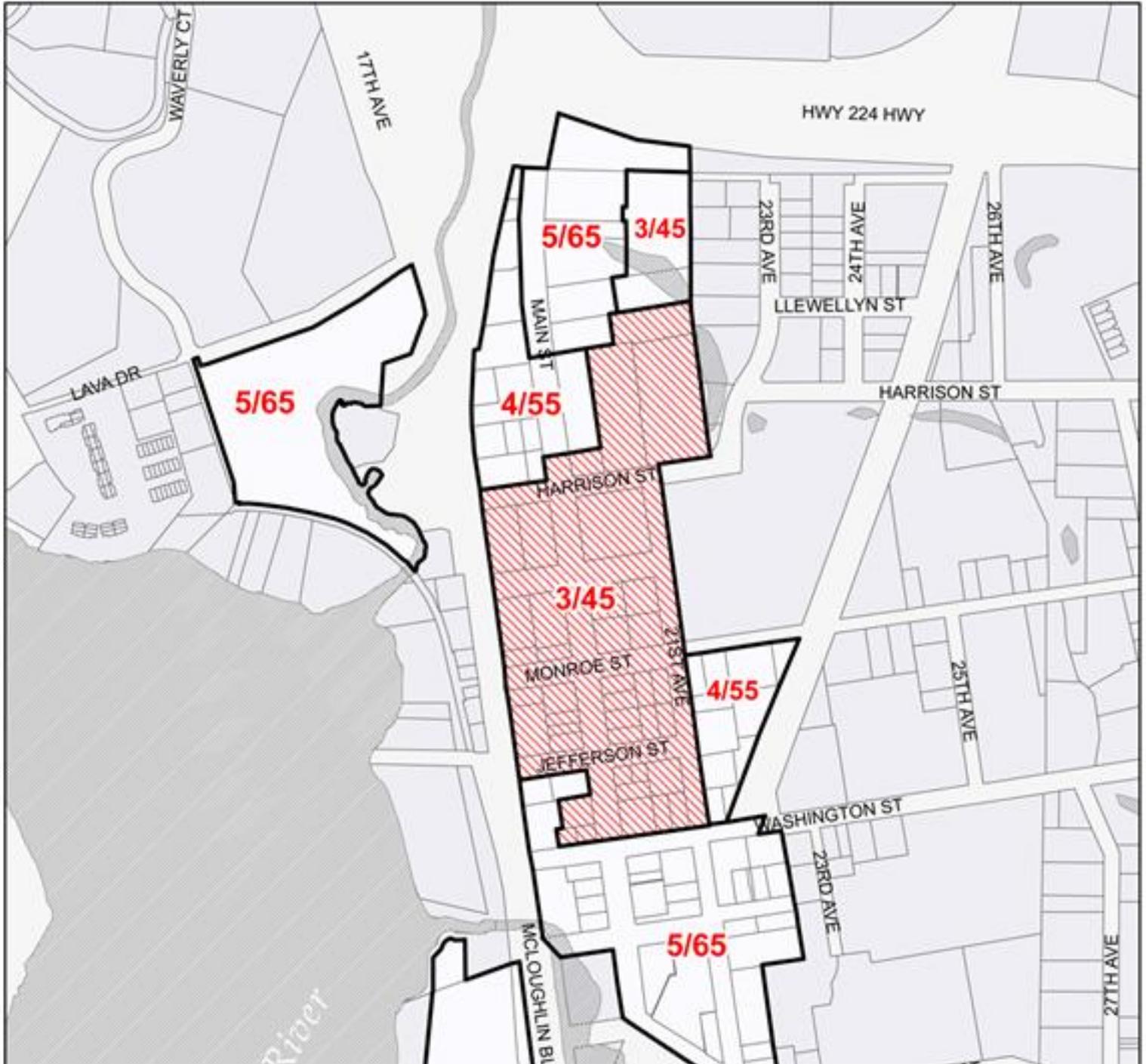
Figure 19.312-5 — Ground-Floor Windows and Openings

Table 19.312.4
DOWNTOWN ZONES—
DEVELOPMENT STANDARDS

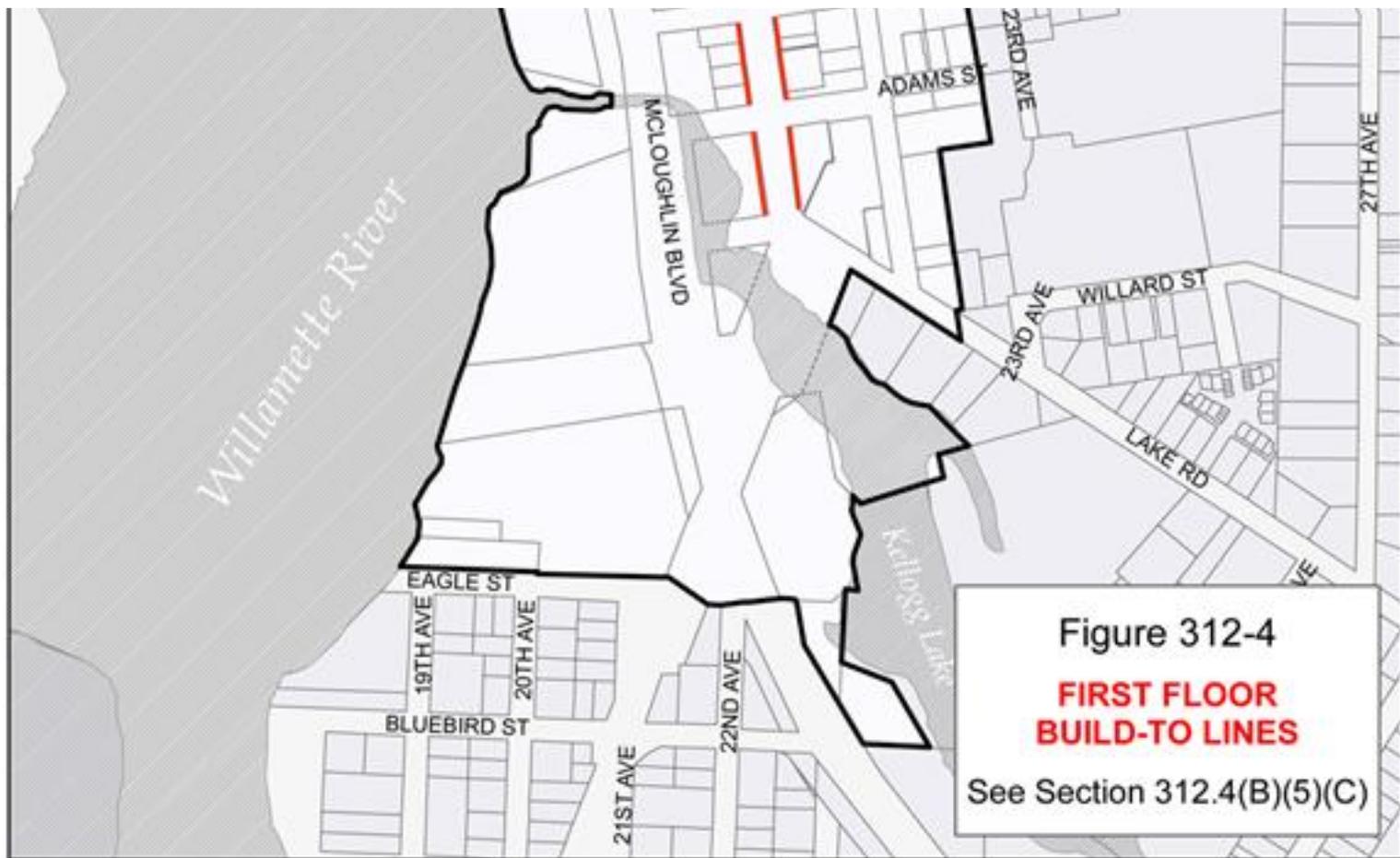
Standard	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
1. Minimum lot size	750 sf	10,000 sf	5,000 sf	750/5,000 sf ²	None
2. Floor area ratio					
Minimum	1:1	0.3:1	0.5:1	N/A	N/A
Maximum	4:1	2:1	3:1	N/A	N/A
3. Building height (see Figure 19.312-3)					
Minimum	35'	25'	25'	None	None
Maximum	45'-55'	55'	65'	45'-65'	None
4. Residential density					
Minimum	None	None	None	10-30 U/Acre	None
Maximum	None	None	None	None	None
5. Street setback (see Figure 19.312-4)					
Minimum	0'	0'	0'	0'	0'
Maximum	10'	50'	10'	None	None
6. Other setbacks (side and rear)	None	None	None	15' ³	None
7. Ground-floor retail (see Figure 19.312-2)	Yes	Yes	Yes	No	No
8. Ground-floor windows/doors (see Figure 19.312-5)	Yes	Yes	Yes	No	No
9. Drive-through facilities	No	No	No	No	No
10. Off-street parking required	No	Yes	No/Yes ⁴	Yes	Yes
11. Landscaping	None	10%	None	15%	20%
² Townhouse lots may be as small as seven hundred fifty square feet. All other lots created in the DR zone shall be a minimum of five thousand square feet.					

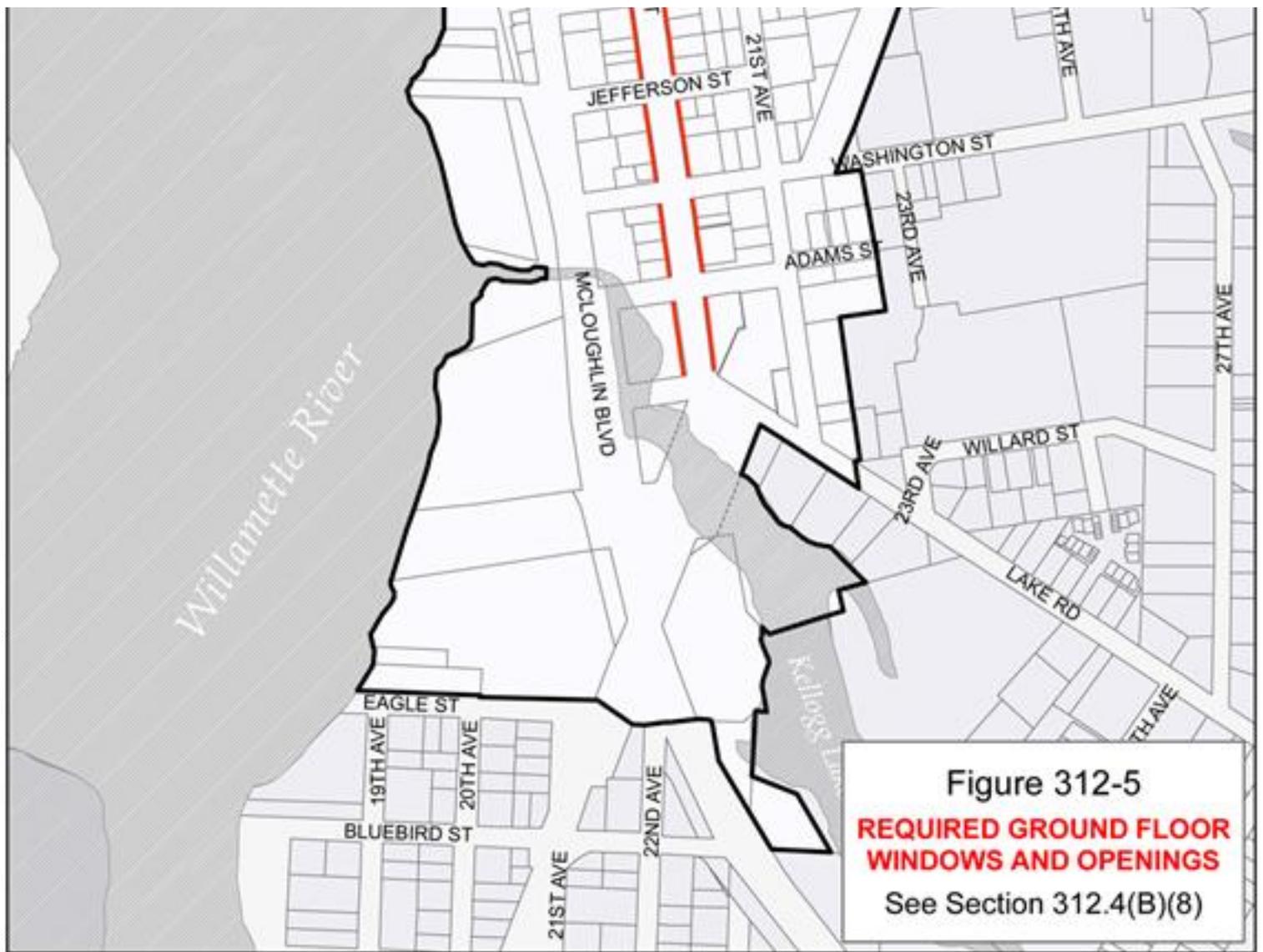
- 3 Setbacks are required only where the DR zone abuts a lower-density residential zone.
- 4 Off-street parking is not required in the DO zone to the north of Washington Street and east of McLoughlin Boulevard. Off-street parking is required in the DO zone located outside of this boundary.











B. Explanation of Development Standards.

1. **Minimum Lot Size.** New lots created in the downtown zones shall meet the minimum lot size standards of Table 19.312.4 as further described below.
 - a. New lots in the downtown storefront and downtown residential zones (in the transitional residential area only) shall be a minimum of seven hundred fifty square feet, with a minimum street frontage of fifteen feet.
 - b. New lots in the downtown office and downtown residential zones (other than those in the transitional residential area) shall be a minimum of five thousand square feet, with a minimum street frontage of thirty feet.
 - c. New lots in the downtown commercial zone shall be a minimum of ten thousand square feet, with a minimum street frontage of thirty feet.
 - d. Land divisions shall comply with applicable provisions of the subdivision ordinance (Title 17 of the Milwaukie Municipal Code).

2. **Floor Area Ratios.** The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum floor area ratios help to ensure that the intensity of development is controlled and that more intense forms are confined to appropriate areas of the downtown.

- a. The minimum floor area ratios in Table 19.312.4 apply to all nonresidential building development.
- b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.
- d. The following uses are exempt from the minimum floor area ratios: transit centers, public parks and plazas, and commercial parking facilities.

3. **Building Height.** Minimum and maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another. Building height standards also establish a consistent streetscape.

- a. Minimum building heights are specified in Table 19.312.4. The minimum building height of thirty-five feet for the downtown storefront zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the downtown storefront zone shall be a minimum height of twenty-five feet.
- b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than one thousand square feet of floor area.
- c. Maximum building heights are specified in Table 19.312.4 and illustrated on Figure 19.312-3. If there is a conflict between Table 19.312.4 and Figure 19.312-3, the maximum building height provisions of Figure 19.312-3 shall control.
- d. An opportunity is provided for a height bonus in a defined area of the downtown plan. For the area identified on Figure 19.312-3 as the height bonus area, the base building height is three stories or forty-five feet, whichever is less. However, if at least one floor or twenty-five percent of the gross floor area is devoted to residential uses, the building is allowed a height of four stories or fifty-five feet, whichever is less.

4. **Residential Density.** There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the downtown residential zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be ten units per acre (see Figure 19.312-1). The maximum density for the residential transition area shall be thirty units per acre.
- b. Minimum densities for stand-alone multifamily apartment/condominium dwellings and senior/

retirement housing in the downtown residential and downtown commercial zones shall be thirty units per acre. Maximum residential densities are controlled by height limits.

c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the downtown storefront, downtown commercial, and downtown office zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the downtown storefront, downtown commercial, and downtown office zones. Maximum residential densities for mixed use buildings are controlled by height limits.

5. **Street Setbacks.** Buildings are allowed and encouraged to build up to the street right-of-way in all downtown zones. Required build-to lines are established in specific areas of the downtown to ensure that the ground floors of buildings engage the street right-of-way (see Figure 19.312-4). The build-to line ensures compatibility and harmony between buildings, enabling a series of different buildings to maintain or establish a continuous vertical street wall.

a. No minimum street setbacks are required in any of the downtown zones.

b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.

c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.312-4. The build-to line includes a necessary degree of flexibility:

i. Projections or recesses of up to eighteen inches are allowed.

ii. Doorways may be set back a maximum of eight feet from the build-to line.

d. Maximum street setbacks of ten feet are established for the downtown storefront and downtown office zones. The fifty-foot maximum setback for the downtown commercial zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the downtown commercial zone along the Main Street frontage.

6. **Other Setbacks.** No specific side or rear yard setbacks are required for the downtown zones with the exception of the downtown residential zone, where a minimum fifteen-foot side/rear yard setback is required where the downtown residential zone abuts lower-density residential zones.

7. **Ground-Floor Retail/Restaurants.** Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.312-2. This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least seventy-five percent of the ground floor area of a building.

8. **Ground-Floor Windows/Doors.** Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the

standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

a. For block faces identified on Figure 19.312-5 (Ground-floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

i. Fifty percent of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or fifteen feet above finished grade, whichever is less.

ii. Doors and/or primary entrances must be located on the block faces identified on Figure 19.312-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.

iii. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazing are not permitted.

iv. Ground-floor windows for buildings on the block faces identified on Figure 19.312-5 shall allow views into storefronts, working areas, or lobbies. No more than fifty percent of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of twenty percent of the window area.

9. Drive-Through Facilities. Drive-through facilities can conflict with the easy, safe, and convenient movement of pedestrians. Therefore, drive-through facilities are prohibited in the downtown zones to create a pedestrian-friendly environment where transit, bicycles and walking are encouraged.

10. Off-Street Parking. The desired character for the downtown storefront zone, particularly along Main Street, is defined by a continuous facade of buildings close to the street, with adjacent on-street parking.

a. Development in the downtown storefront zone, and the portion of the downtown office zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from Chapter 19.500 off-street parking requirements.

b. With the exception of the two areas identified in subsection (B)(10)(a) above, the minimum and maximum parking standards specified in Chapter 19.500 shall apply to development in the downtown zones.

c. Off-street surface parking lots (including curb cuts) shall not be located within fifty feet of the Main Street right-of-way. The planning commission may permit off-street parking lots and curb cuts within fifty feet of the Main Street right-of-way only on the finding in a public hearing that:

i. The overall project meets the intent of providing a continuous facade of buildings close to Main Street;

- ii. The off-street parking area or curb cut is visually screened from view from Main Street; and
- iii. The community need for the off-street parking area or curb cut within fifty feet of Main Street outweighs the need to provide a continuous facade of buildings in that area.

11. **Minimum Landscaping/Open Space.** The minimum landscaping/open space requirements are established to provide amenities for downtown residents, promote livability, and help soften the effects of built and paved areas.

- a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces and porches.
- b. (Repealed by Ord. 1938)
- c. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the public area requirements.
- d. All material in the minimum required landscaped area shall be live plant material. Materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

12. **Right-of-Way Projections.** Right-of-way projections of up to four feet are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

19.312.5 Public Area Requirements.

A. **Purpose.** The design of streets, sidewalks, and public spaces is critical to the overall character and vitality of the downtown zones. The public area requirements prescribe specific details and design criteria for improvements within the public right-of-way, to establish a common urban design thread and link the different land uses and architectural styles of the downtown zones.

B. **Applicability.** The downtown and riverfront public area requirements shall apply as follows:

- 1. All new development in the downtown zones shall comply with the public area requirements.
- 2. Any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty percent of the value of the land and existing improvements, as determined by the county assessor, shall comply with the public area requirements. The building official shall determine development permit value.
- 3. If the development permit value is less than fifty percent of the value of the land and existing improvements, as determined by the county assessor, then an amount equal to at least ten percent of the development permit value shall be utilized to meet the public area requirements. For example, if a one hundred thousand dollar improvement is proposed for a site with land and improvements valued at two hundred fifty thousand dollars, at least ten thousand dollars shall be dedicated to meet the public area requirements. Priorities for public area improvements shall be determined at a preapplication conference

with community development department staff. In general, the public area requirements will be prioritized to benefit the pedestrian as follows:

First priority: Sidewalk improvements

Second priority: Street trees

Third priority: Streetlights

Fourth priority: Street furniture and bicycle parking

19.312.6 Design Standards.

A. Purpose. The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards, together with the public area requirements, will support the development of a cohesive, attractive, and safe downtown area and encourage private investment. The design standards do not prescribe a particular building or architectural style. The standards are intended to be clear and objective, and compliance with the standards is checked as part of building plan review.

B. Applicability. The design standards are applicable to all new construction and to major exterior alterations in the downtown zones. Standards regarding prohibited materials are applicable to minor exterior alterations in the downtown zones. Exterior maintenance and repair of buildings in the downtown zones are exempt from compliance with the design standards. Definitions of exterior maintenance and repair, minor exterior alteration, and major exterior alteration follow.

1. Exterior maintenance and repair includes refurbishing, painting, and weatherproofing of deteriorated materials, and in-kind restoration or replacement of damaged materials. Exterior maintenance and repair does not include replacement of materials due to obsolescence or when associated with minor or major exterior renovation, as defined below. Exterior maintenance and repair does not include the placement of signs.

The design standards are not applicable to exterior maintenance and repair as defined above.

2. Minor exterior alterations include the exterior alterations of any portion of a structure that do not fall within the definitions of “exterior maintenance and repair” or “major exterior alterations.” Minor exterior alterations include, but are not limited to, the application or installation of finish building treatments, including windows and other glazing, doors, lintels, copings, vertical and horizontal projections including awnings, and exterior sheathing and wall materials. Minor exterior alteration does not include the placement of signs.

Additions not exceeding two hundred fifty square feet may be permitted under a minor exterior alteration only when the additional floor area is designed and used for utility, HVAC, other mechanical

equipment, ADA upgrades, or egress required by applicable fire safety or building codes.

The design standards pertaining to prohibited exterior building materials (see subsection C below) are applicable to minor exterior alterations. No other design standards apply to minor exterior alterations.

3. Major exterior alterations include any of the following:

- a. Alterations that do not fall within the definitions of “exterior maintenance and repair” or “minor exterior alterations”;
- b. Demolition or replacement of more than twenty-five percent of the surface area of any exterior wall or roof;
- c. Floor area additions that exceed two hundred fifty square feet or do not meet the limited purposes as defined under the minor exterior alteration (ADA upgrades, etc.).

The design standards are applicable to major exterior alterations as described below:

- i. Major exterior alterations involving a wall(s) shall comply with the design standards for walls and the design standards for windows for that wall(s).
- ii. Major exterior alterations involving a roof shall comply with the design standards for roofs.

C. Design Standards.

1. Design Standards for Residential. The following standards are applicable to “stand-alone” residential buildings in the downtown residential and downtown commercial zones. Additional standards pertaining to walls, windows, and roofs are also applicable to residential buildings and are addressed in subsections (C)(2) through (4) below.

a. Residential Entries and Porches.

- i. Porches, if provided, shall be a minimum of six feet deep by eight feet wide.
- ii. Front entries must face a public street or a landscaped courtyard.

b. Garages and Parking Areas.

i. Garage entrances and parking areas shall not be located between the residential building(s) and the abutting public street.

c. Residential Courtyards, If Provided.

- i. Courtyards shall have a minimum width of thirty feet.
- ii. Up to fifteen percent of the courtyard area may be claimed as private space. The remainder shall be common space.
- iii. The courtyard shall be enclosed on a minimum of two sides by residential front entry doors.
- iv. Garage doors shall not front onto the courtyard.

d. Residential Balconies.

- i. Balconies for residential units shall have a minimum depth of six feet and minimum width of eight feet.
2. Design Standards for Walls. The following standards are applicable to the exterior walls of buildings facing streets, courtyards, and/or public squares in all of the downtown zones.
 - a. Exterior wall-mounted mechanical equipment is prohibited.
 - b. The following wall materials are prohibited at the street level of the building:
 - i. EIFS or other synthetic stucco panels;
 - ii. Split-face or other masonry block.
 - c. The following wall materials are prohibited at all levels of the building in all downtown zones:
 - i. Plywood paneling;
 - ii. Brick with dimensions larger than four by eight by two inches;
 - iii. Spandrel glazing/curtain wall;
 - iv. Vinyl or metal cladding;
 - v. Composite wood fiberboard or composite cement-based siding, except as permitted in the downtown residential zone in subsection (C)(2)(d)(iii);
 - vi. Metal panels, except at penthouse level.
 - d. The following wall materials are permitted only in the downtown residential zone where densities are less than thirty units per acre:
 - i. Board and batten cladding (limited to a maximum of twenty percent of the wall area);
 - ii. Wood shingles;
 - iii. Composite wood fiberboard or composite cement-based siding.
3. Design Standards for Windows. The following standards are applicable to building windows facing streets, courtyards, and/or public squares in all of the downtown zones.
 - a. Windows shall be “punched” openings recessed a minimum of two inches from the wall surface.
 - b. Window height shall be equal to or greater than window width.
 - c. The following windows are prohibited:
 - i. Reflective, tinted, or opaque glazing;
 - ii. Simulated divisions (internal or applied synthetic materials);
 - iii. Exposed, unpainted metal frame windows.
4. Design Standards for Roofs. The following standards are applicable to building roofs in all of the downtown zones.

- a. Flat roofs shall include a cornice with no less than six inches depth (relief) and a height of no less than twelve inches.
- b. Mansard or decorative roofs on buildings less than three stories are prohibited in all downtown zones.
- c. Metal roofs are prohibited only in the downtown residential zone.

19.312.7 Design Review.

A. Purpose. Design review is intended to achieve the following purposes:

1. Preserve and enhance the character of downtown Milwaukee;
2. Ensure a degree of order, harmony, and quality in the downtown zones, providing buildings and projects that are attractive individually yet contribute to a downtown that is unified and distinctive as a whole; and
3. To ensure that new development and alterations or enlargement of existing development are consistent with the downtown design guidelines and downtown and riverfront land use framework plan.

B. Applicability. All new construction and changes to buildings and/or properties in the downtown zones involving exterior maintenance and repair, minor exterior alterations, and major exterior alterations as defined in subsection 19.312.6B are subject to design review in accordance with the procedures as outlined below under subsection 19.312.7E.

C. Design Guidelines. Design guidelines shall be established for the downtown zones and shall be considered as part of design review applications in accordance with the provisions of Section 19.312. The design guidelines shall be adopted by resolution of the city council, in accordance with the procedures of Section 19.1011.5.

D. Duty to Review—Planning Director. The planning director shall review each application for a building permit or other approval in the downtown zones. The purpose of this review is to ensure that improvements within the downtown zones maintain consistent standards of design and to ensure that development is consistent with adopted design guidelines.

E. Application Procedure. Applications for design review shall be processed in accordance with Chapter 19.1000 Type I, Type II, and minor quasi-judicial procedures as indicated in this section, as follows:

1. Exterior maintenance and repair, as defined in Section 19.312.6B.1. shall be processed as a Type I Review in accordance with the procedures in Section 19.1011.1. Exterior painting, repair, and refurbishing of existing building materials that does not require a building permit shall be exempt from Type I Review.
2. Minor exterior alterations, as defined in Section 19.312.6B.2, shall be processed as a Type I Review in accordance with the procedures in Section 19.1011.1. The planning director may change a

Type I Review to a Type II Review upon finding the following:

a. The work is visible from streets, courtyards, and/or public squares and significantly changes the architectural character of the building, which may include changes to exterior wall materials and changes in architectural style; and/or

b. The work is inconsistent with the downtown design guidelines.

3. Major exterior alterations, as defined in Section 19.312.6B.3 shall be processed as Minor Quasi-Judicial Review in accordance with the procedures in Section 19.1011.3. Applications for major exterior alterations shall be heard in a public hearing and decided by the design and landmarks commission, except as follows:

The following major exterior alterations shall be processed by Type II Review:

a. Additions not more than two hundred fifty square feet in floor area that do not face streets, courtyards, and/or public squares and are not designed and used for utility, HVAC, or other mechanical equipment, building upgrades as needed to comply with the Americans with Disabilities Act, or egress required by applicable fire safety or building codes.

b. Demolition or replacement of no more than twenty-five percent of the surface area of any exterior wall or roof that does not face streets, courtyard, and or public squares.

4. Residential.

a. “Stand-alone” residential buildings that do not include non-residential uses are exempt from design review, but shall be subject to the clear and objective design standards under Section 19.312.6.

Applicants may elect to process a stand-alone residential building design review.

b. Mixed-use Buildings. The residential portion of mixed-use buildings shall be subject to the clear and objective standards under Section 19.312.6. The non-residential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed-use building through design review.

Any change in use of the residential portion of a mixed-use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the design and landmarks commission.

F. Application. Applications for design review shall be filed with the planning department on forms prescribed by the planning director. Design review applications shall include a narrative explaining how the development considered each of the downtown design guidelines. The applicant shall demonstrate consistency with the design guidelines and compliance with applicable zoning criteria. In addition to all information specified on the “Submission Requirements” and “Site Plan Checklist” forms, each application for design review shall be accompanied by the following information:

1. Completed design review checklist.

2. Written statement that describes how the proposal meets applicable design guidelines. Where a guideline is not met, the applicant shall provide justification indicating why it is not applicable or demonstrate other site or project characteristics that warrant an exception.

3. Show footprints of surrounding buildings, including driveways and pedestrian connections.

4. Location, dimension, and setbacks of all proposed buildings, structures, walls and fences.

5. Dimensioned building elevations indicating height, exterior materials, colors and details of exterior architectural features, such as cornices, windows and trim.

6. A streetscape drawing showing the relationship of the proposed project to adjacent buildings.

7. Frontage improvements in the public right-of-way per the public area requirements.

G. Approval Criteria for Design Review.

The approval authority may approve, approve with conditions, or deny design review based on the following approval criteria:

1. Compliance with Title 19;

2. Substantial consistency with the downtown design guidelines; and

3. Submission of a complete application and applicable fee as adopted by the city council.

H. Report and Recommendation by Design and Landmarks Commission.

When an application also requires planning commission approval, the planning director for Type II Reviews, or design and landmarks commission for Minor Quasi-Judicial Reviews, shall make a written report of its recommendation concerning the design to the planning commission. After receiving the planning director's or design and landmarks commission's recommendation, the planning commission shall consider the design review recommendation and integrate it with the land use application process applicable to the project.

I. Variances to Development Standards. The design and landmarks commission may authorize variances to the development standards under subsection 19.312.4 in accordance with procedures of Chapter 19.700.

J. Modification of Design Standards. The design and landmarks commission may authorize modification of the design standards under subsection 19.312.6(C), in accordance with the following procedures.

A modification to a design standard may be granted at a public hearing in accordance with subsection 19.1011.3 when all of the following criteria are satisfied:

1. The modification is integral to the overall design concept for the building;

2. The modification:

a. Substantially meets the intent of the design standard; or

b. In combination with other design elements of the project, the modification meets the intent of the design standard; and

3. The project is substantially consistent with the downtown design guidelines applicable to the design standard.

K. Consideration of prohibited material or design features. The planning commission may authorize the use of prohibited materials or design features specified in subsection 19.312.6(C) subject to the following criteria:

1. The applicant demonstrates that the prohibited material is substantially comparable to an allowed material with regards to quality, appearance, style, architectural effect, and durability.

2. Use of the prohibited materials is consistent with design considerations specified for the particular design element in the Milwaukie downtown design guidelines. (Ord. 1938 §§ 1, 3 (Exhs. 1, 2), 2004; Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1880 (part), 2000)

19.313 General Commercial zone C-G.

In a C-G zone the following regulations shall apply:

19.313.1 Outright Uses Permitted. In a C-G zone the following uses and their accessory uses are permitted outright:

A. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists and others of a professional nature;

B. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations;

C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory;

D. Personal service business such as a barber shop, tailor shop or laundry and dry cleaning pickup station;

E. A use permitted outright in this zone with drive-in service facilities;

F. Funeral home;

G. Eating establishment;

H. Marina;

I. Parking facility;

J. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade

establishment;

- K. Financial institution;
- L. Trade or commercial school;
- M. Department or furniture store;
- N. Automobile, boat, trailer or other vehicle or equipment sales and service;
- O. Car wash;
- P. Carpenter or cabinet shop;
- Q. Furniture upholstery;
- R. Building materials supply;
- S. Plumbing, heating, ventilation or electrical shop;
- T. Printing plant;
- U. Repair garage;
- V. Automobile service station;
- W. Sign painting shop;
- X. Tire shop;
- Y. Any other use similar to the above and not listed elsewhere.

19.313.2 Conditional Uses Permitted. In a C-G zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 19.600:

- A. Animal hospital or boarding kennel;
- B. Auditorium or stadium;
- C. Contractor's storage yard;
- D. Sheet metal shop;
- E. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within one hundred feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than ten thousand square feet per head of livestock;
- F. Drinking establishment;
- G. High-impact commercial, except adult entertainment businesses;
- H. Any other use similar to the above and not listed elsewhere.

19.313.3 Standards. In a C-G zone the following standards shall apply:

- A. Lot size: None. Lot width shall be at least fifty feet. Average lot depth shall be at least eighty feet.
- B. Front yard: None, except as provided in subsections E and F below.

C. Side yard: None, except as provided in subsections E and F below.

D. Rear yard: None, except as provided in subsections E and F below.

E. (Repealed by Ord. 1893)

F. Transition area: A transition area shall be maintained according to Section 19.416.

G. Frontage requirements. Every lot shall abut a public street other than an alley for at least thirty-five (35) feet.

H. Off-street parking and loading: As specified in Chapter 19.500.

I. Height restriction: Maximum height of a structure shall be three (3) stories or forty-five (45) feet, whichever is less.

J. Lot coverage: Maximum area that may be covered by buildings and structures shall not exceed eighty-five percent (85%) of the total area of the lot.

K. Open use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, or which would be visible from a public street, shall be screened with a sight-obscuring fence not less than six (6) feet high.

Except for open storage, the following uses shall be conducted within an enclosed building:

1. Carpenter or cabinet shop;

2. Furniture upholstering;

3. Plumbing shop;

4. Repair garage;

5. Sign painting shop;

6. Tire shop;

7. Heating or ventilation shop.

L. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, bark dust for planting beds, etc., shall be fifteen (15%) percent of the total area of the lot.

M. Transportation requirements and standards: as specified in Chapter 19.1400.

19.313.4 Prohibited Uses. The following uses and their accessory uses are prohibited:

A. Adult entertainment business. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

19.314 Manufacturing zone M.

Statement of Purpose. The purpose of this manufacturing zone is to promote clean, employee-intensive industries which may also include related accessory uses, such as commercial and office uses, which

serve the industrial area.

19.314.1 Permitted uses are limited to industrial uses meeting the following criteria:

A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least twenty-five percent (25%) of the total project involves an industrial use as described under subsection B below. The combined uses shall provide at least ten (10) employees per acre;

B. A use which involves the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and/or the assembly of goods from products which have been processed elsewhere, general manufacturing and production;

C. Commercial and office uses which are accessory to the industrial use(s). Such uses may include gymnasium, health club, secretarial services, sandwich deli, small restaurant and retail/wholesale commercial use and showroom;

D. May produce small amounts of noise, dust, vibration, or glare, but may not produce off-site impacts that create a nuisance, as defined by DEQ or the city noise ordinance;

E. Has access to a collector or arterial street;

F. (Repealed by Ord. 1893)

G. A permitted use may require outside storage areas. These storage areas shall be screened with a sight-obscuring fence or dense plantings from any adjoining residential uses or public streets;

H. Warehouse use which is accessory to an industrial use.

19.314.2 Preexisting Uses and Developments. Notwithstanding the provisions of Chapter 19.800, Nonconforming Uses, prohibited uses and structures located in any mapped “Employment” or “Industrial” area, as shown on the Milwaukie Comprehensive Plan Title 4 Lands Map, that were lawfully in existence prior to May 6, 1999, and would be impacted by amendments prohibiting retail uses in excess of sixty thousand (60,000) square feet, are considered to be approved uses and structures for the purposes of this section. If such a preexisting use or development is damaged or destroyed by fire, earthquake, or other natural force, then the use will retain its preexisting status under this provision, so long as it is substantially reestablished within three (3) years of the date of the loss.

19.314.3 Prohibited Uses.

A. Any use which has a primary function of storing, utilizing, or manufacturing explosive materials or other hazardous material as defined by the Uniform Fire Code, Article 80;

B. New residential construction, churches, public schools;

C. Retail uses greater than sixty thousand (60,000) square feet gross floor area per building or business are prohibited on all lots included in mapped “Employment” or “Industrial” areas as shown on Milwaukie Comprehensive Plan Title 4 Lands Map, April 6, 1999.

19.314.4 Authority and Appeal of Administrative Decisions. If the community development director has any questions regarding the applicant's ability to meet the criteria in subsection 19.314.1, the request may be scheduled for review by the planning commission. In addition, a member of the public may appeal a use administratively approved or denied by the community development director to the planning commission. See Section 19.1001 for appeal procedures.

19.314.5 Conditional Uses.

A. Natural Resource Extraction.

1. Open pit and gravel excavating or processing shall not be permitted nearer than fifty feet to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than thirty feet to the right-of-way line of an existing platted street or an existing public utility right-of-way.

2. An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.

3. A rock crusher, washer, or sorter shall not be located nearer than five hundred feet to a residential or commercial zone. Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration or dust which is injurious or substantially annoying to persons living in the vicinity.

B. High-Impact Commercial Uses. When considering a high-impact commercial use, the commission shall consider the following:

1. Nearness to dwellings, churches, hospitals or other uses which require a quiet environment;

2. Building entrances, lighting, exterior signs and other features which could generate or be conducive to noise or other disturbance for adjoining uses;

3. Parking vehicles and pedestrian access and circulation could contribute to noise or attract habitual assembly or unruly persons;

4. Hours of operation;

5. In addition to consideration of the above with respect to building and site design, the planning commission may attach conditions or standards of performance and impact, and methods for monitoring and evaluating these, to insure that such establishments do not become unduly or unnecessarily disruptive.

In addition, when considering an adult entertainment business, the following criteria shall be used: The proposed location of an adult entertainment business shall not be within five hundred feet of an existing or previously approved adult entertainment business or within five hundred feet of either a public park, a church, a daycare center, a primary, elementary, junior high, or high school, or any residentially zoned property, both of which distances shall be measured in a straight line, without regard to intervening structures, between the closest structural wall of the adult entertainment business and either the closest

property line of the impacted property or the closest structural wall of any preexisting or previously approved adult entertainment business.

19.314.6 Site Development Requirements.

A. Setbacks:

Front:	20 feet
Side:	None*
Corner side yard:	10 feet
Rear:	None*

*Except when abutting a residential district, in which case the setback shall match the abutting property.

B. Height: Forty-five feet.

C. Parking and loading: See Chapter 19.500.

D. Landscaping. Fifteen percent landscaping of the site is required. A variety of trees, shrubbery, and ground cover is

encouraged. Street trees are required along street frontages and within parking lots to help delineate entrances, provide shade, and permeable areas for storm water runoff. A bond or a financial guarantee of performance will be required.

E. Site access: One curb cut (forty-five feet maximum) per one hundred fifty feet of street frontage.

F. Transition Area. When the industrial development is adjacent to and within one hundred twenty feet of areas zoned for residential uses, the following characteristics will be considered:

1. Noise;
2. Lighting;
3. Hours of operation;
4. Delivery and shipping;
5. Height of structure;
6. Distance to residential zone boundary.

The commission may attach conditions to reduce any potentially adverse impacts to residential properties.

G. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1857, 1999)

19.315 Community Shopping Commercial zone C-CS.

In a C-CS zone the following regulations shall apply:

19.315.1 Uses. Development shall be a community-scale shopping center.

A. Such center shall include at least three (3) out of the four (4) following uses:

1. Department store uses;
2. Drug and/or variety store uses;
3. Food supermarket;
4. Retail specialty shops.

B. Such center may include the following additional uses:

1. Eating and drinking establishment;
2. Financial institution;
3. Entertainment use (theater, etc.);
4. Personal service businesses;
5. Repair, service or maintenance of goods authorized in this district;
6. Offices, clinics, or trade schools, provided no more than fifteen percent (15%) of the total floor space of the center is devoted to such uses;
7. Any other uses determined by the planning commission to be similar and compatible to the above-listed uses.

C. Uses prohibited shall be: industrial, warehousing, vehicular sales or service, motels, adult entertainment business, machinery sales or repair, contractor's office, and similar uses as determined by the planning commission.

19.315.2 Scale. The minimum size of the community-scale shopping center shall be two hundred thousand (200,000) gross leasable square feet. Construction of the center may be phased, however, and the first phase must be at least one hundred forty thousand (140,000) square feet. If construction is phased, all phases must be completed in three (3) years.

19.315.3 Procedure.

A. Application review; minimum requirements:

1. Site development plan showing site and adjacent streets, access, parking, circulation, landscaped areas, location of buildings, location of pedestrian walkways, location of utilities, service areas, loading areas, lighting, utilities and public facilities;
2. Landscaping plan showing size, species and location of plant materials, irrigation system, site

contouring;

3. Preliminary architectural plans indicating floor plans, elevations, building orientation and signing;
4. Phasing plan, if proposed;
5. Detailed traffic report, analyzing existing traffic, traffic generation, turning movements, and impact on adjacent streets. Report shall recommend roadway improvements needed to mitigate impacts as specified in Chapter 19.1400. The application shall be reviewed under Minor Quasi-Judicial review procedures as provided in Section 19.1011;
6. Proposed on- and off-site improvements to the remaining public facilities (water, sanitary sewer and storm sewer).

B. (Repealed by Ord. 1893)

19.315.4 Criteria for Approval. An application for development will be approved if it meets the following criteria:

- A. It complies with the application requirements under Section 19.315.3A above;
- B. It meets the scale requirements of Section 19.315.2 above;
- C. It meets the use requirements of Section 19.315.1 above;
- D. It meets the development standards of Section 19.315.5 below;
- E. The site plan and building orientation/design shall address the following guidelines:
 1. Create an aesthetically pleasing development by the use of quality materials and the arrangement of buildings, landscaping and parking,
 2. Relate functionally to the site, surroundings and internally,
 3. Be designed to maximize safety and convenience, for the motorist and pedestrian,
 4. Be designed to consider crime prevention techniques,
 5. Signs shall be integrated into the design of the center.

19.315.5 Development Standards.

A. Setbacks (minimum) from property line:

1. Along Hwy. 224: Thirty (30) feet.
2. Along Oak Street: Forty (40) feet.
3. Along 37th Street: Twenty (20) feet.
4. From other property lines: Five (5) feet.

B. Heights (maximum): Three (3) stories or forty-five (45) feet, whichever is less.

C. Access:

1. Maximum of two (2) curb cuts along Oak St. frontage.
2. Maximum of three (3) curb cuts along 37th St. frontage.
3. Location of access points to be approved by the public works director, after consultation with the State Highway Division.

D. Landscaping:

1. A minimum of twenty percent (20%) of the net site area shall be landscaped. Net site area is gross site area minus right-of-way (R-O-W) dedications.
2. All setback areas to be landscaped.
3. A landscaped berm on the Hwy. 224 and Oak St. frontages shall be installed. The berm shall be designed to provide visual relief from the parking and activity areas of the center. The berm may be “tapered” down on either side of access drives.
4. An irrigation system shall be installed for the landscaped areas.
5. Trees (minimum six (6) feet high at time of planting) shall be planted, at least one every fifty (50) feet, along the bermed landscaped areas adjacent to streets.
6. “Landscaped” means a combination of ground cover, shrubbery, and trees installed to form a unified landscape.
7. A bond or financial guarantee of performance will be required.

E. Utilities. All utilities (electric, gas, telephone) shall be installed underground.

F. Transit. Reserve areas for transit facilities (bus turnout, shelter, benches, station, etc.) for the use of mass transit if requested by Tri-Met in their review of the project as specified in Chapter 19.1400.

G. Public Facilities. All necessary public facilities (water, sanitary sewer, storm sewer, streets) must be improved to meet city and state standards.

H. Parking requirements of Chapter 19.500.

I. Design standards:

1. Roof-mounted mechanical equipment shall be screened from view.
2. Loading and delivery areas should be separated from parking and pedestrian areas.
3. A minimum of eighty percent (80%) of the floor space shall be designed as an enclosed mall (where access from one store to another is possible without walking outside). Alternatively, a pedestrian walkway covering is permitted, if designed to shelter pedestrians from inclement weather.
4. Outdoor trash or delivery areas are screened from the public’s view

J. Transportation requirements and standards: as specified in Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1712 (part), 1991)

19.316 Aircraft Landing Facility zone L-F.

In an L-F zone the following regulations shall apply:

19.316.1 Purpose. The purpose of the L-F zone is to minimize hazards related to aircraft landing facilities. Special height limitations or other restrictions in addition to those already embodied in this chapter may be necessary in order to prevent the establishment of obstructions to the air space required by aircraft in landing and taking off from airports, helicopter pads or other landing fields. Furthermore, establishment of any new aircraft landing facility should be undertaken only after an evaluation has been made of its effects on the safety, welfare, and property values of owners or occupants of nearby property. The L-F zone is a superimposed zone applied in combination with existing regular zones.

19.316.2 Limitations on Use. In an L-F zone an airport, helicopter, or other aircraft landing facility and a use or conditional use permitted in accordance with the provisions of the preestablished regular zone shall be permitted only as provided below:

A. The height of any structure or part of structure, such as chimney, tower, antenna, etc., shall be limited according to requirements established by the planning commission or by other appropriate authorities.

B. In approach zones to airports or other aircraft landing facilities, as designated by the planning commission or other appropriate authorities, no meeting place which is designed to accommodate more than twenty-five persons at one time shall be permitted.

C. The size of the property upon which the airport or landing facility is proposed shall be sufficient to permit the safe operation of aircraft, to allow adequate space for all associated facilities, and to protect adjacent property from the impact of aircraft operation and associated activity.

D. Prior to a decision on the establishment of an L-F zone the planning commission shall request a report and recommendation from the Oregon State Board of Aeronautics as to the suitability of the particular property for airport purposes and as to other conditions which might be necessary to safeguard the safety and general welfare of the public.

19.316.3 Procedures. The following procedures shall govern the application of L-F zones:

A. An L-F zone may be established, altered, or abolished subject to the provisions of Chapter 19.900.

B. An L-F zone may be established in combination with other regular zones, an area approved as an L-F zone shall be identified on the zoning map or map amendments with the letters "L-F" in addition to the abbreviated designation of the existing zoning. (Ord. 1712 (part), 1991)

19.317 Reserved.

19.318 Mixed Use Overlay zone MU.

19.318.1 Purpose. This section is intended to provide assurance that the core downtown area and specific underdeveloped sites within the Town Center will be developed under interim mixed use development guidelines and requirements prior to final adoption of all of the regulations associated with the implementation of the Town Center master plan and associated documents.

19.318.2 General Applicability. The mixed use overlay zone will be attached to the primary zone for properties identified as critical to the efforts of the city to develop a mix of uses within the Town Center master plan area. These properties include, but are not limited to, those within Sites 2-1, 2-2, and 2-6 of Subarea 2 and Site 4-1 of Subarea 4 of the Town Center master plan. The MU overlay zone will be applied to the zoning map.

19.318.3 Primary Uses. Provisions of Section 19.318 are intended to allow mixed use development, subject to the processes identified in subsection 19.318.6 below, including retail, commercial, office and residential development, as listed below.

- A. Retail commercial uses such as food store, drugstore, gift shop, and hardware store selling shelf goods primarily (drive-up convenience stores are not permitted);
- B. Multifamily attached condominium dwellings;
- C. Multifamily attached apartment dwellings;
- D. Single-family attached small lot townhouses;
- E. Professional offices;
- F. Personal service businesses such as haircutting shop, tailor shop, laundry and dry-cleaning pickup station, shoe repair, computer and bicycle repair, office equipment and services, and electronics repair;
- G. Motion picture theater (adult theaters are not permitted);
- H. Restaurant and cafe, outdoor seating where provided for in the site design and located off of the public sidewalk area (drive-in and drive-thru food establishments are not permitted);
- I. Brew pub which serves food;
- J. Hotel;
- K. Parking facility;
- L. Financial institution (without drive-up tellers);
- M. Trade or commercial school;
- N. Department or furniture store;
- O. Bed and breakfast;

P. Service station without associated minimart—minor repair service allowed if approved through a mixed use overlay review application;

Q. Farmers' market;

R. Public park or community meeting area;

S. Youth center;

T. Day-care facilities;

U. Any other use similar to the above and not listed elsewhere.

19.318.4 Applicability. Development review and approval, pursuant to subsection 19.318.6, is required for all development on sites having a mixed use overlay zone, unless the proposed development qualifies for an exception under subsection 19.318.5.

19.318.5 Exemptions from Review. The following activities are exempt from review under the mixed use overlay zone:

A. Change of use where there are no exterior alterations to the buildings or structures, or increases in floor area, impervious surfaces or storage areas;

B. The sale of property;

C. The normal maintenance and repair necessary for a legally existing use.

19.318.6 Development Review Process and Criteria.

A. Preapplication Conference.

1. Prior to submittal of an application for development within the MU overlay zone, the applicant shall be required to attend a preapplication conference with community development staff. The applicant must submit a specific written proposal and a site plan drawn to scale in order to schedule a preapplication conference.

2. At the preapplication conference, staff shall determine the applicable development review procedure which would apply to the applicant's specific proposal. Staff shall provide appropriate application materials and outline the applicable review procedure. The applicant shall be required to schedule an appointment with staff to submit the completed MU overlay review application.

B. Planning Commission Review. The planning commission shall review development requests within the mixed use overlay zone, per the procedures outlined in subsection 19.1011.3, Minor Quasi-Judicial Review.

C. Criteria. The planning commission may grant approval of a mixed use overlay review upon a determination that the following circumstances exist:

1. The proposed project is in compliance with the Milwaukie comprehensive plan;

2. The proposed project is in compliance with the Town Center master plan (TCMP);

3. The proposed project is in compliance with the guidelines and requirements of the MU overlay zone;
4. The proposed project complies with any requirements of the underlying zone which have not been superseded by the provisions of the mixed use overlay zone;
5. The proposed project complies with Chapters 19.400, 19.500, and 19.1400 of the zoning ordinance.

D. Minor Development Review. The community development director may approve minor changes in any development permit or small scale improvements to legally existing uses, through the process designated under subsection 19.1011.1 of the zoning ordinance (Type I Administrative Review), provided that such changes:

1. Do not increase the intensity of any use;
2. Meet the requirements of the underlying zone and the specific site design standards of subsection 19.318.8;
3. Are consistent with the Town Center master plan;
4. Do not significantly affect adjacent property or uses, will not cause any deterioration or loss of any natural feature or open space, nor significantly affect any public facility; and
5. Do not affect any conditions specifically placed on the development by the planning commission or city council.

19.318.7 Application Materials. An application for a mixed use overlay review shall include the following:

- A. Name, address and telephone number of applicant and/or property owner;
- B. Address and reference map number of the subject property;
- C. North Arrow, scale and date of revision;
- D. Narrative concerning the proposed request, including a written report identifying how the proposal complies with the applicable approval criteria outlined in subsection 19.318.6C;
- E. Copy of deed showing ownership or interest in the subject property. If the applicant is not the owner or sole owner, written authorization from the owner or joint owner(s) of the property shall be submitted allowing the applicant to apply for the mixed use overlay review;
- F. Vicinity map;
- G. Comprehensive plan and zoning designations of subject property;
- H. A map showing existing uses, structures, lot lines, topography and the location of existing and proposed utilities and easements within one hundred feet of the property;
- I. A map showing the location of all existing trees, their types, location, and diameter at five feet from grade. This map shall be based on a surveyed location of the trees. The map shall identify which

trees, if any, are proposed for removal. This tree map may be combined with the landscaping plan if the resulting plan is legible;

J. Twelve copies of detailed and dimensioned plans, drawn to scale for the specific project, including, but not limited to, the site development plan, building elevations, floor plans, landscaping plan and parking plan. These plans shall show: lot dimensions based on a survey of the property; existing and proposed property boundaries; the distance from structures to property lines and between structures; the building footprint with all projections; and location of driveways, walkways, paved areas, and disabled access and parking. Parking shall address all requirements of Chapters 19.500 and 19.1400 of the zoning ordinance;

K. Color and material samples of paint, siding, and roof material;

L. A sign program, where applicable;

M. Reduced copies (eight and one-half inches by eleven inches) of all plans and maps;

N. Any information required by other provisions of local, state or federal law;

O. Additional drawings, surveys, studies, or other materials necessary to understand or support the proposed use, as required by the community development department through the preapplication process;

P. Notice labels and map;

Q. Payment of the applicable fee.

19.318.8 Development Standards. Except as provided in subsection 19.318.9(A)(1), the following development standards apply to all proposals which have been determined to be subject to the mixed use overlay zone. Development in this overlay zone shall follow the standards and guidelines for development and for specific sites, as indicated below. All development proposals shall comply and not conflict with the Milwaukie comprehensive plan and the Town Center master plan.

A. Commercial and Commercial/Residential Mixed Use (Office Uses are Included in the Commercial Designation).

1. Proposed development shall incorporate a 1:0.5 to 1:2.0 floor area ratio of commercial to residential development. (For every one square foot of commercial, a minimum of one-half square foot of residential would be required, and up to two square feet of residential will be permitted.)

2. Retail and/or service uses are required for the on-street level of any development. Residential and office or additional commercial development can be considered for below-grade development or for stories above the street level.

3. Angled parking shall be developed where street rights-of-way are wide enough.

4. Parking for commercial and residential uses shall be located to the rear or side of a proposed development. Where parking is to be located at the side of a structure, an eight-foot-wide landscape strip shall separate the parking area from the sidewalk.

5. Shared parking shall be provided where feasible. Shared bicycle parking shall be permitted when primary pedestrian entrances are located not more than one hundred feet from the shared bicycle parking area. The shared bicycle parking must be located in an area of high visibility adjacent to a pedestrian walkway or sidewalk.

6. All primary ground floor common residential entries or individual unit entries of street frontage units shall be oriented to the street, not to the interior or to a parking lot. Projecting features such as porches, balconies, bay and dormer windows, and roof pediments are encouraged for structures facing a street.

7. Where structured parking is proposed, it shall be placed in the middle of a block, with commercial and retail uses at the street level. Innovative decorative designs are required to mask any portion of the upper structure which is visible from the street. Parking dimensions shall not include support posts of the underground or above-ground parking structure.

8. Parking which is provided without a parking structure shall comply with the dimensional and landscaping requirements of Chapter 19.500 of the zoning ordinance.

9. Auto-oriented and drive-in uses are prohibited, except for service stations without related minimarts when a conditional use has been approved.

10. A minimum of sixty percent of the ground floor wall area in retail development abutting pedestrian ways and plazas shall consist of nonreflective windows and doorways.

11. Outdoor displays and cafe areas shall be permitted subject to city right-of-way permits and related standards. If an outdoor display is located on private property adjacent to the right-of-way, the display shall not impede traffic on the public sidewalk, and the displays and daily display signs shall be removed each evening. Cafe seating shall be permitted on private property adjacent to the public sidewalk with approval under the site design/conditional use permit process. Outdoor cafe seating on private property need not be removed each evening.

12. Residential development shall incorporate shared parking, circulation and bike parking opportunities whenever possible. A planting strip shall separate the right-of-way and the sidewalk. High- and medium-density residential development is encouraged to have an articulated front facade which makes the building appear to be segmented or similar to the size and bulk of single family residential units, where possible.

13. Owners of existing single-family homes within the mixed use overlay zone may apply for a conditional use permit to allow a detached secondary living unit, an attached secondary living unit, or conversion to a duplex or triplex, provided that one of the units shall remain owner-occupied. Sound insulating and energy-efficient materials shall be provided in any of the above conversions of existing space. Setbacks and development standards of the underlying zone must be met.

14. No outside storage is allowed, with the exception of garbage dumpsters, which are screened by a

solid wood fence with a gate, or fully contained individual storage units associated with residential uses.

15. If a project maximizes the residential density allowed in this overlay zone and by the comprehensive plan Town Center designation, additional retail or office uses can be permitted on the site through the site design/conditional use review process.

16. Projects accommodating a combination of residential, with retail or office, uses may cluster, combine, or separate the uses on portions of a single property, or a series of properties which are in the process of merger.

17. Residential densities between twenty-five and fifty dwelling units per acre shall be permitted within the mixed use overlay zone if the proposed project incorporates seven out of thirteen of the requirements listed in subsection (A)(18) below.

18. All new development shall comply with at least six of the following “essential” requirements:

- a. Special awning treatment;
- b. Special grate or paving treatment, landscaping, planter boxes or pots, and pedestrian-scale lighting between sidewalk and entrance of the building;
- c. Provision for public art or historical reference in the form of a plaque or public display;
- d. Special street lighting or other custom-designed street furniture or similar amenities;
- e. Development of public space, including, but not limited to, plazas, gathering areas, or special landscaped areas;
- f. Residential uses above ground-level retail space;
- g. Enhanced transit amenities such as covered bus shelters or bike lockers;
- h. Upgraded noise buffering on attached residential units;
- i. Provision of protected play areas in residential development;
- j. Provision of enhanced pedestrian accessways from rear parking areas to the frontage street;
- k. Provision of decorative drinking fountains or other custom-designed street furniture;
- l. Structured parking consistent with subsection (A)(7) above.

19. If a property to be developed includes an historic structure or a single-family home which is in good repair or can be easily repaired, the applicant may propose a density transfer in conjunction with a PD development in order to retain the single-family housing stock while allowing some higher density development on the same or an adjacent parcel, which is combined with the parcel on which the single-family home is located.

20. In areas where new development abuts existing single-family development, a twenty-foot buffer area of landscaping shall be provided and consideration shall be given to additional setback of second, third or fourth stories.

21. Bicycle and pedestrian routes shall be provided consistent with the requirements and standards of Chapter 19.1400.

19.318.9 Specific Sites in Subareas 2 and 4. The following additional requirements apply to proposed development in specific subareas and on specific sites:

A. Subarea 2.

1. Sites 2-1 and 2-2 (Murphy Plywood Site).

a. These sites may be developed with a mix of commercial and commercial/residential space with limited service and retail uses, including restaurants. In such cases, retail uses shall be located on the ground floor adjacent to pedestrian walkways. Development of commercial and mixed uses at these sites shall comply with the provisions of subsection 19.318.8.

b. Business industrial (BI) uses as set forth in Section 19.324 shall also be allowed. The development of BI uses on Sites 2-1 and 2-2 shall comply with the development requirements of Section 19.324, except that outdoor storage shall be permitted. In this case, the 32nd Avenue and Meek Street property lines shall be considered front yards and a twenty-foot setback shall be applied. These setbacks shall be landscaped in accordance with subsection 19.503.19(A)(6), and provided with a sight-obscuring wooden fence adjacent to the public right-of-way and residential property lines. The planning commission may allow these setbacks to be reduced to ten feet, where the proposed design of the buffer is of a high quality and includes: (1) the use of masonry walls, or other acceptable material, of up to eight feet in height; (2) enhanced landscaping; and (3) one of the elements listed in subsection 19.318.8(A)(18). Development of BI uses on the site is not required to comply with the standards set forth in subsections 19.318.8 and 19.309.3.

2. Site 2-6 (Providence Milwaukie Hospital Site). This site shall be developed with a primary emphasis on specialized senior assisted-living housing and related support services that are tied to the adjacent hospital and medical complex. Development should provide for housing and medical services which will meet the needs of an aging population. The provisions of subsection 19.318.8(A)(1) and (2) shall not apply to Site 2-6. Applications for Site 2-6 will be subject to a design review. Alternative designs appropriate to meet the intent of subsection 19.318.8(A)(4), (6), and (21) will be evaluated by the planning commission.

B. Subarea 4.

1. This site shall be developed with high-density (sixteen to twenty-four dwelling units per acre) diverse housing types. Retail, office, or lodging uses are also allowed at a 2:1 ratio (for every two square feet of residential, one square foot of commercial will be permitted). Commercial uses on the site shall be limited to those listed in subsections 19.318.3E, F, H, L, R, S and T. Commercial use may be increased to a 1:1 ratio (one square foot of commercial for every one square foot of residential), if amenities 2, 3, 4, 5,

7, 8, 9 and 11 of subsection 19.318.8(A)(18) are provided. A report on the status of contamination on this site shall be submitted with any proposed development.

2. Minimum vegetation for the site shall be thirty percent. Particular attention shall be paid to landscaping, which shall be designed to provide buffers to the residential neighborhoods to the north and east. Building heights shall also be designed to provide a transition for the neighboring residential properties. The height limit within fifty feet of the Monroe Street or 37th Avenue right-of-way shall be two stories or thirty-five feet, whichever is less. The building height for the remainder of the development on this site is three stories or forty-five feet, whichever is less. Building setbacks from property lines shall be fifteen feet for the front and rear yards and five feet for side yards. Minimum lot standards shall conform to the R-O-C standards, except that the minimum lot width for single-family attached and condominium units may be reduced to twenty feet wide if amenities 2, 4, 5, 7, 8 and 9 of subsection 19.318(A)(18) are provided. The distance between buildings on the same lot shall be six feet for one story and a minimum of five feet per every story over one.

19.318.10 Consistency with Underlying Zones. The MU overlay zone is anticipated to overlay a number of different zones. The following section addresses areas where the MU overlay will control development.

A. R-O-C Zone. The uses and processes stipulated in the MU overlay zone supersede those identified in the R-O-C zone. The minimum lot size shall be five thousand square feet, and the density shall be controlled by the MU overlay and the comprehensive plan alone. No yards are required. The height restriction is based on the MU overlay height allowance. The lot coverage requirement and transition area requirement are removed in favor of the site design process. Use restrictions are superseded by those in the MU overlay zone.

B. WG Zone. The requirements of the Willamette Greenway overlay zone control when in conflict with the provisions of the MU overlay zone. Compliance with the Willamette Greenway overlay requires that a conditional use permit be reviewed and approved. When a Willamette Greenway zone and a mixed use zone both overlay a property, a single site design/conditional use permit application may be processed. The fee set for the site design/conditional use permit shall be the fee paid for the combined application.

C. NR Zone. The requirements of the natural resource overlay zone and the MU overlay zone both apply to a property which is subject to both overlay zones. An NR application must be processed prior to or concurrent with a development proposal under the MU overlay zone. If a project is determined not to be subject to the MU overlay zone, but is also an NR zone property, a separate determination of the applicability of the NR zone must be made.

19.318.11 Validity of Uses. In the MU overlay zone, uses prohibited by this overlay zone that were legally established or occupied on or prior to the effective date of this overlay zone shall be considered to be legal nonconforming uses.

19.318.12 Nonconforming Uses.

A. Milwaukie Code provisions regarding construction, discontinuance, improvement, or change of nonconforming uses, as contained in Chapter 19.800, are applicable to uses within the MU overlay zone.

B. In addition to meeting requirements as specified in Chapter 19.800, development proposals involving nonconforming uses or structures must also comply with the setback, landscaping, and access standards of the MU overlay zone. (Ord. 1893 (part), 2001: Ord. 1880 (part), 2000)

19.319 Planned Development zone PD.

In a planned development zone the following regulations shall apply:

19.319.1 Purpose. The purpose of a PD planned development zone is:

A. To provide a more desirable environment than is possible through the strict application of zoning ordinance requirements;

B. To encourage greater flexibility of design and the application of new techniques in land development;

C. To provide a more efficient, aesthetic, and desirable use of public and private common open space;

D. To promote variety in the physical development pattern of the city; and

E. To encourage a mix of housing types and to allow a mix of residential and other land uses.

19.319.2 Use. A planned development approved by the city council and based on a final development plan and program shall constitute the planned development zone. The PD zone is a superimposed zone applied in combination with regular existing zones. A PD zone shall be comprised of such combinations of types of dwellings and other structures and uses as shall be authorized by the council, but the council shall authorize only those types of dwellings and other structures and uses as will:

A. Conform to the city's comprehensive plan;

B. Form a compatible and harmonious group;

C. Be suited to the capacity of existing and proposed community utilities and facilities;

D. Be cohesively designed and consistent with the protection of public health, safety and welfare in general; and

E. Afford reasonable protection to the permissible uses of properties surrounding the site. In addition to residences and their accessory uses, the council may authorize commercial and nonresidential uses which it finds to be:

1. Designed to serve primarily the residents of the planned development,

2. Limited to those nonresidential uses which do not exist in the vicinity, and

3. Fully compatible with, and incorporated into, the design of the planned development.

19.319.3 Development Standards. All standards and requirements of this chapter and other city ordinances shall apply in a PD zone unless the planning commission grants a variance from said standards in its approval of the PD zone or accompanying subdivision plat.

A. **Minimum Size of a PD Zone.** A PD zone may be established only on land which is suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes of this zone. A PD zone shall not be established on less than two acres of contiguous land unless the planning commission finds that a smaller site is suitable because of unique character, topography, landscaping features, or constitutes an isolated problem area.

B. **Special Improvements.** In its approval of the final plan or subdivision plat within a PD zone, the city may require the developer to provide special or oversize sewer lines, water lines, roads and streets, or other service facilities. Such approval shall not obligate the city to expend funds for additional construction equipment or for special road, sewer, lighting, water, fire or police service.

C. **Density Increase and Control.** The council may permit residential densities which exceed those of the underlying zone, if it determines that the planned development is outstanding in planned land use and design and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning. In no case shall such density increase be more than twenty percent greater than the density range prescribed for the primary land use designation indicated in the comprehensive plan.

D. **Peripheral Yards.** Along the periphery of any PD zone, additional yard depth, buffering, or screening may be required. Peripheral yards shall be at least as deep as that required by the front yard regulations of underlying zones. Open space may serve as peripheral yard and/or buffer strips to separate one planned area from another, if such dual use of the land is deemed to comply with this section.

E. **Open Space.** Open space means the land area to be set aside and used for scenic, landscaping, or open recreational purposes within the development. Open space may also include areas which, because of topographic or other conditions, are deemed by the council to be suitable for leaving in a natural condition. Open space shall be adequate for the recreational and leisure needs of the occupants of the development, and shall include the preservation of areas designated by the city for open space or scenic preservation in the comprehensive plan or other plans adopted by the city.

The development plan and program shall provide for the landscaping and/or preservation of the natural features of the land. To ensure that open space will be permanent, deeds or dedication of easements of development rights to the city may be required. Instruments and documents guaranteeing the maintenance of open space shall be approved as to form by the city attorney. Failure to maintain open space or any other property in a manner specified in the development plan and program shall empower the city to enter said property in order to bring it up to specified standards. In order to recover such maintenance costs, the city may, at its option, assess the real property and improvements within the

planned development.

All planned unit developments will have at least one third of the gross area devoted to open space and/or outdoor recreational areas. At least half of the required open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets.

19.319.4 Any development within a PD zone shall be subject to the provisions of design review as outlined in a separate ordinance.

19.319.5 Preliminary Development Plan and Program.

A. Applicant. For the purpose of this section, “owner” or “owner-applicant” means and includes any individual(s), partnership(s), corporation(s), public body(ies), legal entity(ies), or holder(s) of a written option to purchase said property. An owner of land located outside, but contiguous to, the city may submit a preliminary development plan for consideration by the city providing that an application for annexation to the city has been filed.

B. A preliminary development plan and program shall be submitted by the applicant with information as required by resolution of the planning commission.

19.319.6 Planning Commission Review of Preliminary Development Plan and Program.

A. Conditional approval by planning commission. Following the meeting, or any continuance thereof, the planning commission shall notify the applicant whether, in its opinion, the provisions of this chapter have been satisfied, or advise of any deficiencies.

B. Upon approval in principle of the preliminary development plan and program by the planning commission, with or without modifications, the owner-applicant shall, within six months, file with the city a final development plan and program and an application for a change of zone classification.

19.319.7 Final Development Plan and Program. The final development plan and program shall contain information as required by resolution of the planning commission.

19.319.8 Subdivision Plat.

A. If the planned development will involve the subdivision of land as defined in city subdivision regulations, the owner-applicant shall prepare and submit a preliminary subdivision plat along with information required by said ordinance to be considered at the same time as the final development plan and program.

B. The final subdivision plat shall be submitted within one year subsequent to approval of the planned development zone by council.

19.319.9 Application for Zone Change. Together with submission of the final plan and development program, the owner-applicant shall submit an application for a zone change to apply the PD zone to the subject property.

19.319.10 Planning Commission Action on Final Development Plan and Program.

A. Upon receipt of the final development plan and program, zone change application, and preliminary subdivision plat, where applicable, notice shall be given and the planning commission shall hold a public hearing per subsection 19.1011.4, Major Quasi-Judicial Review. If the final development plan and program is found to be in compliance with previous approval and with the intent and requirements of this title, it shall recommend the same, together with appropriate documents and conditions, to the city council for adoption.

B. It shall at the same time recommend the change to PD zone in accordance with the provisions of Chapter 19.900. The approved final development plan and program shall be the basis upon which the change in zone is made. It shall at the same time approve the preliminary subdivision plat in accordance with the Milwaukie subdivision regulations.

C. If the land upon which the change to PD zone is sought is not within the boundaries of the city, the planning commission may approve the zone change and recommend it to the city council to become effective when the land becomes annexed to the city; or continue the public hearing for the purpose of suitably amending the proposal; or disapprove the proposed developments and abandon hearings and proceedings thereon.

19.319.11 Council Action on Final Development Plan and Program.

A. Upon receipt of planning commission recommendations as set forth above, the final development plan and program and zone change application shall be considered by the city council.

B. Following the consideration, the council may adopt an ordinance applying the PD zone to the subject property and, in so doing, shall adopt the approved final development plan and program as the standards and requirements for said zone. Council, by said ordinance, shall also accept or reject all or part of the dedications of public facilities, land, and open space.

C. If the proposed PD zone is contiguous to, but not within, the city boundaries, the city council shall delay final action until the land is officially annexed to the city.

D. The council may also continue consideration and refer the matter back to the planning commission with recommendations for amendment thereof, or reject the proposals and abandon further hearings and proceedings thereon.

19.319.12 Filing of Approved Final Plan and Program. Following action to amend the zoning ordinance and prior to its effective date, the owner-applicant shall file with the city a conformed and approved final development plan and program, together with all pertinent documents approved as to form by the city attorney.

19.319.13 Recording of Notice of Final Development Plan. Each owner of property so rezoned shall execute a notice prepared by the city which acknowledges that the final development plan and program approved by the city council constitutes zoning for the property. Such notice shall contain a

legal description of the property and reference to the certified copy of the final development plan and program filed in the office of the city recorder. Said notices shall be recorded in the office of the county recorder of Clackamas County.

19.319.14 Development Improvement Prohibited Pending Compliance. No excavation, grading, construction, improvement, or building shall begin, and no permits therefor shall be issued, within the PD zone until all provisions of this article including execution and filing of required documents, all requirements of the city subdivision ordinance and building code, and all requirements of the final development plan and program have been complied with, unless approved by the planning commission.

19.319.15 Variations from Final Development Plan and Program.

A. Proposed changes which do not meet these criteria shall be processed in the same manner as for a new planned development.

B. The development may vary from the approved final plan and program so long as it is consistent with any subsequent subdivision plat approved by the planning commission and does not alter total density, ratio of dwelling unit types, boundaries of the planned development or location or area of public spaces.

C. Where changes in a subdivision plat are not required, an application for approval of variations to the recorded final plan and program may be submitted in writing. Such variations may be approved by the city staff provided they do not alter dwelling unit densities, alter dwelling unit type ratios, increase or change the type or location of commercial or residential structures, change the boundaries of the planned development, or change the location and area of public open spaces and recreational areas.

19.319.16 Expiration of Planned Development Zone. If, within six months of its effective date, substantial construction or development in the PD zone has not occurred in compliance with the approved final development plan and program and schedule for stage completion, the planning commission may initiate a review of the PD zone and hold a public hearing to determine whether its continuation in whole or in part is in the public interest. Notification and hearing shall be in accordance with subsection 19.1011.4, Major Quasi-Judicial Review, of the zoning ordinance. If found not to be, the planning commission shall recommend to the city council that the PD zone be removed by appropriate amendment to the zoning ordinance and property changed back to original zoning. (Ord. 1712 (part), 1991)

[19.320 Willamette Greenway zone WG.](#)

In a WG zone, the following regulations shall apply:

19.320.1 Purpose. The purpose of the Willamette Greenway zone is to protect, conserve, enhance, and maintain the natural, scenic, historic, economic and recreational qualities of lands along the Willamette River and major courses flowing into the Willamette River.

19.320.2 Area Defined. The Willamette Greenway zone is that area within the Willamette Greenway plan boundary identified on the zoning map. The WG zone is in combination with the underlying zone.

19.320.3 Limitations on Use. All land use actions and any change or intensification of use, or development permitted in the underlying zone, are conditional uses, subject to the provisions of Chapter 19.600.

Prohibited uses:

- A. Commercial, industrial and residential structures and residential accessory structures exceeding thirty-five feet in height;
- B. Residential floating structures;
- C. New private noncommercial boathouses or storage structures, including temporary structures;
- D. New private noncommercial docks exceeding four hundred square feet;
- E. Grading and tree cutting is prohibited in the buffer, except as allowed in subsections 19.320.8(B)(1) —(6).

19.320.4 Definitions.

“Change of use” means making a different use of the land or water which requires construction; alterations of the land, river bed, bank, water, or other areas outside of existing buildings or structures; and which substantially alters or affects the land or water.

“Develop, developing” means activities which result in removal of substantial amounts of vegetation or in the substantial alteration of natural site characteristics; e.g., to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, to create or terminate rights of access.

“Development” means the act, process, or result of developing.

“Floodway” means the channel of the river and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (FEMA definition).

“Intensification” means any change of use; or action which increases or expands the area or amount of an existing use or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure.

“Large trees” means trees with at least a six-inch caliper at five feet of height.

“Native vegetation” means plant species indigenous to the Portland Metropolitan area, consisting of trees, shrubs, and ground cover, as identified in the Portland plant list.

“Nonresidential floating structure” means water-dependent or water-related structures, usually made of

wood or concrete and containing a flotation system of polystyrene or similar materials, that ride on the river surface anchored by a cable either to the river bed, to piling, or to the riverbank, for uses including, but not limited to: public walks or river access not associated with marina or moorage; water-ski jumps; swimmer's resting platform; storage of marine-related equipment or boat storage; or boat fueling facility. Sometimes fully enclosed buildings are situated atop the floating structure. Restaurants, snack bars, and the like are included in this definition.

“Ordinary high water line” means the line on the bank or shore to which the water ordinarily rises annually. Ordinary high water shall be established by the Division of State Lands (DSL) with reference to historical data, vegetation, field observations, survey or other generally accepted methods.

“Public access” means facilities that enable the public to safely make physical contact with the river and its environs.

“Residential floating structure” (houseboat or floating home) means single- or multifamily dwellings supported on the river by a flotation system, which may include a system of piles, berths, walkways and ramps. This is not a water-dependent or water-related use.

“Riparian” means related to, living, or located on the bank of a waterway.

“Riverbank” means a land feature or constructed structure that serves to contain the waters of the river. It can be distinguished from upland areas by the presence of riparian vegetation in close proximity to flowing water. Usually the riverbank represents the limits of seasonal high water and periodic flood waters.

“Security” means any form of surety approved by the city attorney, including, but not limited to: performance bond, letter of credit or cash escrow account.

“View window” means an area of unobstructed view. The width of a view window shall be measured at the point where vegetation is removed.

“Water-dependent” means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water.

“Water-related” means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water- dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.

19.320.5 Procedures. The following procedures shall govern the application of WG zones:

A. In the WG zone, all uses and their accessory uses are permitted subject to the provisions of Chapter 19.600.

B. The Oregon Department of Transportation shall be notified according to the provision of subsection 19.1011.3D.

C. The provisions of the WG zone in Section 19.320 shall apply until adoption of the Willamette Greenway design plan.

D. A greenway conditional use is required for all intensification or change of use, or alteration of the vegetation buffer area, or development, as defined in this chapter. Approval shall be granted only if the criteria in subsection 19.320.6 are met.

E. **Submittal Requirements.** A vegetation/buffer plan must be submitted for each application for a greenway conditional use permit.

F. Written notice, including a copy of the application, will be sent upon receipt to the Oregon Parks and Recreation Department by certified mail—return receipt requested. The Oregon Division of State Lands, Oregon Department of Fish and Wildlife, and State Marine Board shall also be notified of each application.

G. Written notice shall be provided to the Oregon Division of State Lands after the land use action is final for activities affecting wetlands or submerged or submersible lands within the Willamette River Greenway. The notice shall include local government conditions of approval.

19.320.6 Criteria. The following shall be taken into account in the consideration of a conditional use:

A. Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan;

B. Compatibility with the scenic, natural, historic, economic, and recreational character of the river;

C. Protection of views both toward and away from the river;

D. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable;

E. Public access to and along the river, to the greatest possible degree, by appropriate legal means;

F. Emphasis on water-oriented and recreational uses;

G. Maintain or increase views between the Willamette River and downtown;

H. Protection of the natural environment according to regulations in the natural resource overlay zone;

I. Advice and recommendations of the design review committee, as appropriate;

J. Conformance to applicable comprehensive plan policies;

K. The request is consistent with applicable plans and programs of the Division of State Lands;

L. A vegetation buffer plan meeting the conditions of subsection 19.320.8(A)—(C).

19.320.7 Setbacks. On a case-by-case basis, uses that are not water-dependent or water-related shall be evaluated according to criteria of subsection 19.320.6 above so that they are directed away from the river. Existing and proposed uses that are water-dependent and water-oriented may be permitted near or at the water's edge subject to review of criteria in subsection 19.320.6 above.

19.320.8 Vegetation Buffer Requirements.

A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location twenty-five feet upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of subsection B below.

B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:

1. **Riverbank Stabilization.** The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.

2. **Scenic View Protection (Screening).** The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.

3. **Retain Existing Native Vegetation and Large Trees.** The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. Removal of native vegetation and large trees is allowed pursuant to the following standards:

a. Large trees that are diseased, dead or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.

b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.

c. Tree and vegetation removal may be allowed to create one view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed one hundred feet or fifty percent of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.

4. **Restore Native Vegetation.** The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.

5. **Enhance Vegetation Buffer Area.** The plan may provide for enhancing lands within the buffer area.

Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed. New plant materials in the buffer strip shall be native vegetation.

6. Security that the Plan Will Be Carried Out. The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.

C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

19.320.9 Private Noncommercial Docks. Private noncommercial docks are subject to the following requirements:

A. Only one dock is allowed per riverfront lot of record.

B. In areas designated as open water areas or special management areas by the Division of State Lands, docks may be restricted or additional requirements may be applied to docks. Restrictions or additional requirements will be identified by DSL in their review of the development application.

C. Private, noncommercial docks shall not exceed four hundred square feet (square footage is measured as the width times the length of the outer edge of the structure), with the following exceptions:

1. Legal nonconforming docks or boathouses;
2. Nonconforming structures may be altered or replaced pursuant to Chapter 19.800.

D. Docks, pilings, and walkways shall either be dark natural wood colors, or painted dark earthtones (dark brown or green).

E. Private noncommercial docks shall not:

1. Restrict boat access to adjacent properties;
2. Interfere with the commercial navigational use of the river, including transiting, turning, passing, and berthing movements;
3. Interfere with critical fish and wildlife habitat or fishing use of the river as determined by Oregon Department of Fish and Wildlife; nor
4. Significantly add to recreational boating congestion.

19.320.10 Greenway Design Plan. The WG zone is intended to be temporary and will be replaced by the Willamette Greenway design plan when it is completed. The Willamette Greenway design plan is identified in the comprehensive plan of the city. (Ord. 1782, 1995)

[19.321 Community Service Overlay zone CSO.](#)

19.321.1 Purpose. This section provides for the development of special uses which, because of their public convenience, necessity, and unusual character, may be appropriate in one district but not

another. This section also provides for the review and approval of various kinds of public and private facilities including utility and recreational facilities. The community service overlay will function as an overlay designation for public and private institutions in most zones and districts.

19.321.2 Applicability. Any community service development shall be subject to the provisions of this section, unless otherwise directed in primary zones. Community service uses include private and public utilities, institutions, and recreational facilities as listed below:

A. Institutions—Public/Private and Other Public Facilities.

1. Schools, public or private, and their accompanying sports facilities, daycare centers, private kindergartens;
2. Government office buildings for local, state, or federal government such as a city hall, courthouse, correctional facilities, or other similar buildings;
3. Hospital;
4. Cemetery;
5. Nursing or convalescent home;
6. Churches;
7. Community meeting building;
8. Temporary or transitional facility;
9. Other similar uses as determined by the planning commission.

B. Utilities.

1. Sewage pumping stations;
2. Water wells, pump stations and related facilities;
3. Electrical power substations;
4. Repealed by Ord. 1910;
5. Public works shops, road shops, yards, bus barns, equipment and material storage yards, and other similar uses;
6. Repealed by Ord. 1910;
7. Repealed by Ord. 1910;
8. Public transit facilities;
9. Passenger terminal;
10. Other similar uses as determined by the planning commission.

C. Recreation Facilities—Public or Private.

1. Private club, fraternal organization, lodge, grange;
2. Public and/or privately owned parks including golf courses;
3. The 40-Mile Loop;
4. Other similar uses as determined by the planning commission.

D. Communication Facilities.

1. Telephone switching station;
2. Telephone, microwave facilities;
3. Radio and television transmission facilities, including studios;
4. Wireless communication facilities.

19.321.3 Notice Requirements. Except as provided in Section 19.321.4C and 19.321.11-Wireless communication facilities the planning commission shall hold a public hearing for a community service use request per the procedures outlined in subsection 1101.3-Minor Quasi-Judicial Review, Community Service Overlay.

19.321.4 Authority to Grant or Deny a Community Service Use.

A. An application for a community service use may be allowed if:

1. The requirements of the underlying zone are met;
2. Specific standards for the uses found in subsections 19.321.7—19.321.10 are met; and
3. The hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses.

B. In permitting a community service use or the modification of an existing one, the planning commission, or the community development director in the case of a minor change, may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. These conditions may include but are not limited to:

1. Limiting the manner in which the use is conducted by restricting the time an activity may take place and by minimizing such environmental effects as noise and glare;
2. Establishing a special yard, setback, lot area, or other lot dimension;
3. Limiting the height, size, or location of a building or other structure;
4. Designating the size, number, location, and design of vehicle access points;
5. Increasing roadway widths, requiring street dedication, and/or requiring improvements within the street right-of-way including full street improvements;
6. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area; and/or

7. Limiting or otherwise designating the number, size, location, height and lighting of signs.

C. The community development director may approve minor changes in any development permit, provided that such change:

1. Does not increase the intensity of any use, or the density of residential use;
2. Meets all requirements of the underlying zone and specific standards;
3. Does not significantly affect adjacent property or uses, will not cause any deterioration or loss of any natural feature or open space, nor significantly affect any public facility; and
4. Does not affect any conditions specifically placed on the development by the planning commission or city council.

D. The planning commission will hold a public hearing on the establishment of the proposed community service use. If the commission finds that the establishment of the community service use is in the general public interest and that the benefits to the public outweigh the possible adverse impacts of the use, then the commission may approve the designation of the site for community service use. If the commission finds otherwise, the application may be denied. This approval will result in the application of the community service overlay designation to a particular piece of land, subject to any conditions the planning commission may attach.

19.321.5 Application Requirements. An application for approval of a community service use shall include the following:

- A. Name, address and telephone number of applicant and/or property owner;
- B. Map number and/or subdivision block and lot;
- C. Narrative concerning the proposed request;
- D. Copy of deed, or other document showing ownership or interest in property. If applicant is not the owner, the written authorization from the owner for the application shall be submitted;
- E. Vicinity map;
- F. Comprehensive plan and zoning designations;
- G. A map showing existing uses, structures, easements, and public utilities and showing proposed development, placement of lot lines, etc.;
- H. Detailed plans for the specific project;
- I. Any information required by other applicable provisions of local, state or federal law;
- J. Proof of payment of the applicable fees;
- K. Additional drawings, surveys or other material necessary to understand the proposed use may be required.

19.321.6 Review of Application. Upon receipt of an application, the director shall:

A. Review the application for completeness and shall either accept the application or return it to the applicant with a written list of omissions within seven (7) calendar days of the date of submittal. Date of acceptance shall be noted.

B. A preapplication conference may be scheduled at the request of either the applicant or staff.

C. As soon as an application is accepted as complete, notice will be sent if required by Section 19.1011.

D. A field visit to the site will be required prior to preparation of the staff report.

19.321.7 Specific Standards for Schools.

Public, private or parochial, elementary, secondary, preschool, nursery schools, kindergartens, and daycare centers are included.

A. Public elementary or secondary schools shall provide the site area/pupil ratio required by state law. Other schools shall provide one acre of site area for each seventy-five (75) pupils of capacity or for each two and one-half (2 1/2) classrooms, whichever is greater, except as provided in subsection B below.

B. Preschools, nursery schools, daycare centers, or kindergartens shall provide a fenced, outdoor play area of at least seventy-five (75) square feet for each child of total capacity, or a greater amount if so required by state law. In facilities where groups of children are scheduled at different times for outdoor play, the total play area may be reduced proportionally based on the number of children playing out-of-doors at one time. However, the total play area may not be reduced by more than one half. These uses must comply with the State Children's Services Division requirements as well as the city provisions.

C. Walkways, both on and off the site, shall be provided as necessary for safe pedestrian access to schools subject to the requirements and standards of Chapter 19.1400.

D. Sight-obscuring fence of four (4) to six (6) feet in height shall be provided to separate the play area from adjacent residential uses.

E. Public facilities must be adequate to serve the facility.

F. Safe loading and ingress and egress will be provided on and to the site.

G. Off-street parking (including buses) shall be provided as per Chapter 19.500.

H. Minimum setback requirements:

Front yard: twenty (20) feet

Rear yard: twenty (20) feet

Side yard: twenty (20) feet

Setbacks may be increased depending on the type and size of school in order to insure adequate buffering between uses and safety for students.

- I. Bicycle facilities are required which adequately serve the facility.
- J. Fifteen percent (15%) of the total site is to be landscaped.

19.321.8 Specific Standards for Nursing or Convalescent Homes.

- A. Public services must be adequate to serve the facility.
- B. Facilities will access on arterial or collector streets.
- C. Setbacks must be the greater of twenty-five (25) feet or the setback of an adjacent residential zone or of the underlying zone.
- D. Maximum height shall not exceed forty-five (45) feet.
- E. Buffering of noise and light from adjacent streets and between adjacent properties may be required.
- F. Sites which could cause hazard to disoriented patients through proximity to heavily traveled streets, water hazards, or ravines or steep slopes shall not be approved unless the applicant can satisfy the commission that safety measures will be used to prevent injury to patients.
- G. On parcels surrounded by existing dwellings, additional conditions may be necessary to:
 - 1. Mitigate the effects of traffic caused by shift changes, particularly regarding noise at night and safety of school children in transit; and/or
 - 2. Maintain neighborhood scale, particularly regarding size of structure, width of driveway, signs, exterior lighting, and placement of parking facilities.
- H. Conversion of existing dwellings may be allowed if state codes and rules can be met and the conditions of this section are satisfied.

- I. Off-street parking must be provided as per Chapter 19.500.
- J. Fifteen percent (15%) of the total site is to be landscaped.

19.321.9 Specific Standards for Churches, Convents and Related Facilities.

- A. A church spire may exceed the maximum height limitation.
- B. The lot is of sufficient size to allow all required yards to be equal to at least two-thirds (2/3) of the height of the principal structure.
- C. (Repealed by Ord. 1893)
- D. Fifteen percent (15%) of the total site is to be landscaped.
- E. Off-street parking as per Chapter 19.500.

19.321.10 Specific Standards for Institutions—Public/Private and Other Facilities not Covered by Other Standards.

- A. Utilities, streets, or other improvements necessary for the public facility or institutional use shall be provided by the agency constructing the use.

B. When located in or adjacent to a residential zone, access should be located on a collector street if practicable. If access is to a local residential street, consideration of a request shall include an analysis of the projected average daily trips to be generated by the proposed use and their distribution pattern, and the impact of the traffic on the capacity of the street system which would serve the use. Uses which are estimated to generate fewer than twenty (20) trips per day are exempted from this subsection B.

C. When located in a residential zone, lot area shall be sufficient to allow required setbacks that are equal to a minimum of two thirds (2/3) of the height of the principal structure. As the size of the structure increases, the depth of the setback must also increase to provide adequate buffering.

D. The height limitation of a zone may be exceeded to a maximum height of fifty (50) feet provided subsection C above is met.

E. Noise-generating equipment shall be sound-buffered when adjacent to residential areas.

F. Lighting shall be designed to avoid glare on adjacent residential uses and public streets.

G. Where possible, hours and levels of operation shall be adjusted to make the use compatible with adjacent uses.

19.321.11 Specific Standards for Solid Waste Facilities.

A. Hours of operation. If a solid waste facility is to be located within five hundred (500) feet of property planned, zoned, or used for residential purposes, no solid waste facility shall be in operation between the hours of 7:00 p.m. and 7:00 a.m.

B. Traffic. No solid waste facility shall be approved except where all vehicular access to and from the solid waste facility site is via a city of Milwaukie designated arterial street or Oregon Department of Transportation highway. No solid waste facility shall be approved unless consistent with the Level of Service standards of Chapter 19.1400.

C. Litter control. The applicant shall provide to the city of Milwaukie at the time of application a plan for daily litter control. Said plan shall include identification of personnel, financing, available tools and facilities, methods to be used, and a method for public contact to notify operators of litter, noise, or other operational problems.

D. Noise. Noise levels shall comply with Chapter 8.08 of the Milwaukie Municipal Code.

E. Storage. All materials shall be stored within an enclosed building except as follows:

1. Where all materials are stored within an area enclosed by a solid, opaque wall or fence eight (8) feet or more in height and landscaped along all street frontages, and,

2. When located at least two hundred and fifty (250) feet from property planned, zoned, or used as residential, and,

3. Where all materials are nonputrescible.

F. After-hours use. Any containers provided for after-hours donation of recyclable materials only shall be located at least two hundred and fifty (250) feet from any property planned, zoned, or used for residential purposes.

G. Glare. Exterior light shall be in accordance with the latest recommendations of the Illumination Engineering Society. Glare from either direct or indirect sources shall not exceed five tenths (0.5) footcandles. Site lighting shall be hooded and directed downwards, onto the site.

H. Materials handled. No hazardous wastes, as defined and regulated by Oregon Revised Statutes 466.005 as amended, shall be disposed on the site.

19.321.12 Standards for Wireless Communication Facilities.

A. Applicability. The placement, construction, or modification of wireless communication facilities are subject to the provisions of this section.

B. Purpose. The purpose of this section is to establish regulations for the siting of wireless communication facilities to allow service to the community while protecting the community from clutter and designs which are not consistent with existing and future land uses.

The goals of this section are to:

1. Enhance the ability of providers of wireless communication to provide comprehensive service to the community.
2. Minimize the number of towers throughout the community.
3. Encourage facilities to be located in areas least disruptive to residential, park, natural resource, and Willamette Greenway areas.
4. Encourage co-location of wireless communication facilities.
5. Preserve and improve the appearance of the city by encouraging the use of existing buildings, lights, utility poles, water towers, and stealth designs, instead of constructing new towers or support structures.
6. Minimize the visual impact on the

immediate surroundings and throughout the community by ensuring that all new wireless communication facilities (WCFs) are located and constructed in such a manner so as to avoid adverse impacts on their surrounding settings.

C. Application Process.

1. Placement, construction, or modification of WCFs not involving the construction of a new monopole shall be subject to the provisions of Section 19.1011.2 Type II Administrative Review process provided that the antennas and base equipment comply with the standards contained in this section.
2. All proposed new monopole towers are subject to Minor Quasi-Judicial Review.

D. Application Submission Requirements.

In addition to the required submission material the following must also be included with the application:

1. Applications for a WCF that will include a new monopole tower:
 - a. A narrative description of:
 1. Tower location
 2. Design
 3. Height
 4. Antenna location and type for all planned antennas
 5. Indication of the number of additional antennas the tower will be able to accommodate.
 - b. Type of antennas the tower is designed to accommodate and
 - c. Reason for the location, design and height of the proposed tower and antenna.
 - d. A photo simulation of the proposed tower in relation to the surrounding area.
 - e. A signed agreement binding present and future owners or operators of the WCF that allows co-location of antennas on the WCF.
 - f. Documentation that all necessary applications, permits, agreements and easements have been obtained.
 - g. Documentation of FAA or satisfactory evidence that FAA approval is not required. Satisfactory evidence that FAA approval is not required shall be an Aerospace Safety Analysis Corporation determination or similar evidence.
 - h. The signature of the property owner(s) on the application form or a written signed statement from the property owner(s) granting authorization to proceed with the land use application and building permits.
 - i. Documentation that alternative antenna support locations within one thousand five hundred (1500) feet have been considered and have been determined to be technologically or legally infeasible or inadequate. The applicant shall pay to the city the costs of hiring a third party to review the application for accuracy in accordance with the fee resolution adopted by the city council.
 - j. In addition to those items required on the site plan checklist, the following must also be included:
 1. Landscaping plan showing existing and proposed vegetation, including size, type and the amount of proposed vegetation.
 2. Location of connections to utilities and right-of-way curb cuts.
 3. Location of required easements and access drives.

4. Location of the proposed wireless communication facility and related base equipment.
5. The lease area in relation to the underlying parcel/property as well as neighboring parcels on all sides.
2. WCF Not Including a New Tower.
 - a. Detailed narrative description describing the proposed antenna location, design and height.
 - b. Statement that antenna was placed so as to allow for placement of additional antennas on the same antenna support structure, to the extent practicable.
 - c. Documentation demonstrating the proposal has been submitted and approved by the owner of the structure to which the antenna will be attached.
 - d. Document demonstrating that necessary applications, permits, agreements, and easements have been obtained.
 - e. For extensions to existing facilities the applicant shall provide documentation of FAA approval of the tower design or satisfactory evidence that FAA approval is not required. Satisfactory evidence that FAA approval is not required shall be an Aerospace Safety Analysis Corporation determination or similar evidence.
 - f. The site plan must include the elements listed on the site plan checklist and must also include, to the extent applicable:
 1. Landscaping plan showing existing and proposed vegetation, include size, type and amount of proposed vegetation. In some cases, such as co-location on rooftops or other similar uses, the city may determine that landscaping will not be required.
 2. Location of connections to utilities and right-of-way curb cuts.
 3. Location of required easements and access drives.
 4. Location of proposed related base equipment and existing WCF.
 5. Lease area in relation to the underlying parcel/property as well as neighboring parcels on all sides.

Table 19.321.12.D

1 = Minor Quasi Judicial Review- requires a public hearing in front of the Planning Commission

2 = Type II Administrative Review- provides for an administrative decision with the option of a public hearing

P = Permitted **N** = Not Permitted

Towers		WCFs Not Involving New Tower		
ZONES	New Monopole Tower 100 feet	Building Rooftop or Wall mounted antenna ¹	Water towers, existing towers, and other stealth designs	On existing utility pole in ROW with or without extensions ²
BI	P1	P2	P2	P2
M	P1	P2	P2	P2
C-N	N	P2	P2	P2
C-G	N	P2	P2	P2
C-L	N	P2	P2	P2
CSC	N	P2	P2	P2
DC	N	P2	P2	P2
DR	N	P2	P2	P2
DO	N	P2	P2	P2
DS	N	P2	P2	P2
ROC	N	P2	P2	P2
R1B	N	P2	P2	P2
R1	N	N	P2	P2
R2	N	N	P2	P2
R2.5	N	N	P2	P2
R3	N	N	P2	P2
R5	N	N	P2	P2
R7	N	N	P2	P2
R10	N	N	P2	P2

¹ Rooftop extensions are not to exceed 15 feet in height above the roof top and are not to project greater than 5 feet from the wall of a building.

² Antennas placed on right-of-way utility poles may be extended 15 feet. If the pole cannot be extended, the carrier may replace the pole. The replacement utility pole shall not exceed 15 feet in height of the pole that is to be replaced.

E. Use of Existing Tower or Antenna Support Structure.

1. All wireless communication providers are required to attempt to co-locate on existing antenna support structures or locate on alternative antenna support structures before applying to construct a WCF that will include a new tower.

2. New towers shall not be approved unless the applicant demonstrates to the reasonable satisfaction of the planning director that no existing towers or alternative antenna support structure can accommodate the applicant's need for the placement of an antenna in the vicinity of the applicant's proposed location. Evidence demonstrating that use of an existing or alternative support structure is not possible shall be submitted to the planning director and shall include one or more of the following:

a. That no existing antenna support structures are located within the geographic area which meet the applicant's engineering requirements in regards to location, size, and structural strength and that alternative antenna support structures are not feasible.

b. That use of any existing structure would cause electromagnetic interference with the existing antennas and electronic and other radio frequencies.

c. That co-locating on an existing antenna support structure would violate RF emissions standards set by the FCC.

d. That fees, costs or contractual provisions required by the owner in order to use an existing antenna support structure are unreasonable. A refusal by the owner to allow co-location shall be considered an unreasonable provision.

3. Evidence demonstrating that alternative support structures were considered, but determined to be technologically insufficient, submitted to the planning director for review must be verified and stamped by an engineer licensed in the state of Oregon.

4. All wireless communication providers shall cooperate with other wireless communication providers and act in good faith in co-locating additional antennas on existing support structures and/or existing buildings or other alternative support structures. All support structures eighty (80) feet in height or greater shall be designed to not preclude co-location. All support structures eighty (80) feet or greater shall be designed to hold additional antennas that are substantially similar to the proposed antennas array.

F. Location and Size Restrictions.

1. Separation for New Monopole Towers.

New monopole towers may not be constructed within one thousand five hundred (1500) ft. of any pre-existing tower. The planning commission has the authority to approve a reduction in the minimum separation requirement to not less than one thousand (1000) feet, provided that the applicant can demonstrate the need to the satisfaction of the planning commission, for the distance reduction. A tower

shall include any pre-existing tower or any tower for which the city has issued a building permit, or for which a land use application has been filed and not denied. This distance shall be measured in a straight line from the base of the existing tower to the base of the proposed tower.

2. Height. Maximum heights. Also see table 19.321.12.D.

a. Height Restrictions: The maximum height limitation of the monopole tower and antennas shall not exceed the following:

1. BI and M zone one hundred (100) feet.

2. New towers are not permitted in the R-1-B, R-1, R-2, R-2.5, R-3, R-5, R-7, R-7PD, R-10, R-10PD, R-O-C, C-N, C-G, C-L, DC, DR, DO, DS and the DOS zones.

b. For co-location on existing towers extensions or pole replacements shall be permitted, but are not to exceed one hundred twenty (120) feet.

c. Antennas on buildings may not extend greater than fifteen (15) feet from the rooftop, or shall not project more than five (5) feet from the side of a building.

d. For antennas on utility poles in the right-of-way, a fifteen (15) foot extension is permitted. The carrier may replace the existing pole with a new utility pole not to exceed fifteen (15) feet above the height of the pole that is to be replaced. Equipment cabinets shall be attached to the utility pole. Where this is not practicable, the base equipment shall be subject to requirements of Section 19.321.12.G.1(b).

G. Development Standards for All WCFs.

1. Setbacks and Equipment Cabinets.

a. Setbacks for new monopole towers and equipment cabinets shall be established from the property line and not the leased area. Regardless of the zone, the setbacks shall be as follows:

1. Front Yard- A front yard shall be at least seventy-five (75) feet.

2. Side Yard- A side yard shall be at least fifteen (15) feet.

3. Rear Yard- A rear yard shall be at least twenty (20) feet.

4. For all properties abutting residential zones, a seventy-five (75) foot setback shall be maintained from the border of the residential zone.

5. The equipment cabinet shall meet the vegetative screening requirements addressed in Section 19.321.12.G.6-Landscaping and Fencing Requirements.

b. For antennas placed on existing utility pole and other support structures located in the right-of-way, the equipment cabinet shall be located on the utility pole to the greatest extent.

If it is technologically infeasible to place the equipment cabinet directly on the utility pole due to cabinet size then the cabinet shall be placed in an underground vault in the right-of-way.

If it is not technologically feasible to place the cabinet in an underground vault then the following

setbacks and standards shall apply:

1. The equipment cabinet may be located in the right-of-way provided the equipment cabinet does not exceed a length and width of three (3) feet by two (2) feet and four (4) feet in height.

2. If the equipment cabinet is larger than three (3) feet by two (2) feet and four (4) feet in height, then the following setbacks shall apply regardless of the zone.

Front Yard- Equipment cabinets are not permitted within the front yard setback.

Side Yard- shall be at least fifteen (15) feet from the property line.

Rear Yard- shall be at least twenty (20) feet from the property line.

3. The equipment cabinet shall meet the vegetative screening requirements addressed in Section 19.321.12.G.6- Landscaping and Fencing Requirements.

c. Equipment cabinets for water towers, “stealth” designs or other antenna support structures not covered by the previous sections.

1. Regardless of the zone the following setbacks shall apply:

Front Yard- Equipment cabinets are not permitted within the front yard setback.

Side Yard- shall be at least fifteen (15) feet from the property line.

Rear Yard- shall be at least twenty (20) feet from the property line.

2. The equipment cabinet shall meet the vegetative screening requirements addressed in Section 19.321.12.G.6- Landscaping and Fencing Requirements.

2. Ladder rungs. No ladder rungs or climbing pegs on new towers or poles shall be allowed within twenty (20) feet of the ground.

3. Guy Anchorage and Lattice Towers. Lattice or guyed towers shall not be permitted in any zone.

4. Lighting.

a. The minimum security lighting necessary, as required by the FAA, to secure the tower shall be permitted. All security lighting must be directed downward onto the tower compound itself.

b. Lights on existing antenna support structures may remain.

5. Noise. When the property and adjacent properties are zoned for residential uses or occupied by hospitals, schools, libraries, nursing homes or other similar uses, noise-generating equipment shall be sound buffered so that nighttime noise after construction is no louder than the ambient nighttime noise prior to construction of the WCF. The nighttime noise shall be measured between the hours of 10:00 p.m. and 7:00 a.m. Emergency back-up generators shall be excluded from this noise requirement.

6. Landscaping. A landscaping plan, which demonstrates how the proposed vegetation will effectively screen the view of the base of the tower, equipment cabinets, and the security fence, shall be submitted with the application. The landscaping plan shall include the following:

a. New Monopoles.

1. A six (6) foot high security fence shall be placed around the base of the monopole and the equipment cabinets.
2. The landscaping shall include a screen of plants with an anticipated height at time of maturity of at least six (6) feet. Plantings shall be placed densely so as to form a screen.
3. Landscaping shall be kept healthy and maintained.

b. Equipment cabinets for antennas placed on alternative support structures located out of the right-of-way.

1. The landscaping shall include a screen of plants with an anticipated height at time of maturity of at least six (6) feet. Plantings shall be placed densely so as to form a screen.
2. Landscaping shall be compatible with native vegetation found in the surrounding area, if any.
3. Landscaping shall be kept healthy and maintained.

c. Landscaping is not required for equipment cabinets located on buildings, or in the right-of-way.

d. In some cases equipment cabinets may be placed in areas where landscaping may not be practical.

For these circumstances for Type II Land Use reviews the applicant may request that the Planning Director waive landscaping requirements. For Minor Quasi Judicial land use applications, the applicant may request that the Planning Commission waive landscaping requirements.

7. Access drives. All newly created access drives shall meet the following standards:

- a. The driveway shall not exceed ten (10) feet in width.
- b. On a site with an existing use, access to the site shall be achieved through existing drives to the greatest extent practicable.
- c. Any portion of the access drive located within the front yard of a parcel shall be paved with asphalt or concrete.

8. Signage.

- a. Advertising is not permitted.
- b. Identification signs are permitted, but are not to exceed four (4) square feet in area.
- c. Additional signage as required by law shall be permitted.

9. Discontinued use of and removal of WCFs.

a. Any WCF not operated for a continuous period of six (6) months shall be considered abandoned. The WCF owner is required to remove all abandoned facilities and base equipment within ninety (90) days after notice from the city of Milwaukie.

b. If the owner of the WCF cannot be located or is no longer in business, it shall be the responsibility

of the landowner on whose property the WCF is located to remove the abandoned facility and base equipment.

10. Affirmative duty to keep city informed.

a. All operators of WCFs within the city of Milwaukie shall be required to report in writing to the planning director any changes in the status of their operation. The report shall include any of the following changes:

1. Changes in or loss of FCC license from the FCC to operate.
2. Receipt of notice of failure to comply with the regulations of any other authority over the business or facility.
3. Loss or termination of lease for the WCF for a period of six (6) months or longer.

b. An annual written statement shall be filed with the planning director verifying continued use of each of their facilities in the city's jurisdiction as well as continued compliance with state and federal agency regulations.

H. Expiration of Approval. Authorization under this chapter shall be void after six (6) months unless substantial construction has taken place. If substantial construction has not taken place and the approval becomes void, the facility must be completely removed and the site must return to its pre-existing condition. (Ord. 1910 Exh. 1, 2002: Ord. 1893 (part), 2001: Ord. 1880 (part), 2000)

[19.322 Water Quality Resource Regulations.](#)

19.322.1 Purpose, General Policies and Declarations.

A. Many of the city's original wetland and riparian resources have been adversely affected by historical development. These regulations seek to minimize additional adverse impacts and restore and improve resources where possible while balancing property rights and development needs of the city.

B. It is the intent of this chapter to ensure protection of the functions and values of water quality resource areas at the time of development.

C. It is not the intent of this chapter to:

1. Impose any obligation on property owners for the restoration of existing developed sites to pre-development or natural condition.

2. Impose any hardship or limitation against the continued maintenance of existing legal site conditions.

3. Restrict activities that do not constitute development or to apply to activities that do not affect the water quality resource areas. Normal lawn and yard planting and maintenance does not include planting

of invasive non-native or noxious vegetation.

4. Prohibit normal lawn and yard landscape planting and maintenance.

This chapter is to be interpreted consistently with this intent.

D. Relief from the strict application of this section is afforded through 19.322.11 variance provisions and 19.322.12 modification of the Water Quality Resource Area boundaries.

E. This chapter provides protection for natural resources that have been identified for the purposes of implementing Statewide Planning Goal 5 and Metro Urban Growth Management Functional Plan Title 3.

F. This chapter establishes the water quality resource area regulations. The Milwaukie Water Quality Resource Area Map is incorporated by reference as part of this chapter.

G. The water quality resource area regulations allow development in situations where adverse impacts from the development can be avoided or mitigated and where the strict application of these rules would deny reasonable economic use of property.

H. Implementation of this chapter is in addition to and shall be coordinated with Milwaukie Municipal Code Title 19 Zoning Ordinance, Title 18 Flood Hazard Regulations and Chapter 16.28 Erosion Control.

I. Conditions legally existing as of December 17, 2002, that are inconsistent with this chapter are declared legal non-conforming situations.

J. Evidence of physical conditions for sites existing at the time this chapter was adopted shall consist of city, county and Metro records, aerial photography and other information that may be available.

K. The planning director shall produce and maintain the Milwaukie native plants list.

19.322.2 Coordination with the Willamette Greenway Overlay.

A. For properties along the Willamette River, nothing in this chapter shall prohibit the maintenance of view windows authorized under the Milwaukie Zoning Ordinance 19.320 Willamette Greenway Zone.

B. Except as provided for in Section 19.322.2(A), provisions of this chapter shall apply where they are more restrictive than Chapter 19.320 Willamette Greenway Zone.

19.322.3 Applicability.

Water quality resource area regulations apply to all properties containing protected water features as shown on the adopted Water Quality Resource and Flood Hazard Map. Application for development activity shall be made in accordance with Title 19, this chapter, and Sections 19.322.6 Application Requirements and 19.322.10 Development Standards.

19.322.4 Activities Permitted Outright.

The following activities are permitted outright in the water quality resource area and therefore do not require approval under the provisions of this chapter except if they result in direct stormwater discharges to the water quality resource area:

- A. Stream, wetland, riparian and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the planning commission.
- B. Farming practices or farm uses, excluding buildings and structures except if such activities or uses increase direct discharges to water resources.
- C. Change of use where there are no exterior alterations to buildings or structures, or increases in floor area, impervious surfaces or storage areas.
- D. The normal maintenance and repair of existing structures, utilities, access, streets, driveways and parking improvements including asphalt overlays.
- E. Temporary emergency procedures necessary for the safety or protection of property.
- F. Landscape planting and maintenance that does not involve invasive non-native or noxious vegetation.
- G. Maintenance of public and private storm drainage facilities in accordance with a management plan approved by the planning commission.
- H. Other activities similar to the above that are determined by the planning director to be consistent with the purpose and policies of this chapter and which have also been found to have no appreciable impact to the water quality resource area.
- I. Removal of invasive or non-native plant species.

19.322.5 Activities Permitted Under Type I Application Review.

The following activities are allowed within the water quality resource area under 19.1011.1 Type I application review subject to the conditions specified below except if it increases direct stormwater discharges to the water quality resource area:

- A. Measures to remove or abate nuisances, or any other violation of state statute, administrative agency rule or city or county ordinance subject to a mitigation plan to be approved by the planning director prior to the abatement activity.
- B. Tree removal as necessary to eliminate an imminent hazard to person or property when sufficient evidence of the hazard is provided to the satisfaction of the planning director.
- C. Improvements and modifications to legal structures that do not increase the building footprint or size and location of the existing area of disturbance within the water resource quality area. New decks, patios, building extensions or other development that extend into the water quality resource area are subject to 19.322.7.
- D. Other activities similar to the above that are determined by the planning director to be consistent with the purpose and policies of this chapter and which have also been found to have no appreciable impact to the water quality resource area.

19.322.6 Activities Permitted Under Type II Review.

The following activities are allowed in the water quality resource areas subject to approval by the planning director under Section 19.1011.2 Type II review and compliance with Section 19.322.10 Development Standards.

A. Improvement of existing public utility facilities where:

1. The disturbed portion of the water quality resource area is restored; and
2. Non-native vegetation within the disturbed area is removed from the water quality resource area and replaced with vegetation from the Milwaukie native plant list.

B. Any activity allowed under 19.322.4 (A) and 19.322.4 (B) that increases direct stormwater discharges to the water quality resource area.

C. Modification to any nonconforming situation subject to Type II review under Section 19.800 Nonconforming Situations.

D. Other activities similar to the above that are determined by the planning director to be consistent with the purpose and policies of this chapter and which have also been found to have no appreciable impact to the water quality resource area.

19.322.7 Activities Permitted Under Minor Quasi-Judicial Review.

The following activities are allowed within the water quality resource areas subject to approval by the planning commission under 19.1011.3 minor quasi-judicial review and compliance with Section 19.322.10 Development Standards:

A. Any activity allowed in the base zone, other than those listed in Sections 19.322.4 (A) through 19.322.4 (C).

B. Roads to provide access to protected water features or necessary ingress and egress across water quality resource areas.

C. New public or private utility facility construction.

D. Walkways and bike paths.

E. New stormwater detention, retention or pre-treatment facilities.

F. Widening an existing road adjacent to, or running parallel to a water quality resource area.

G. Additions, alterations, rehabilitation or replacement of existing structures, roadways, accessory uses and development that increase the structural footprint or disturbed area within the water quality resource area.

H. Natural resource management plans and stormwater management plans.

I. Partitions and subdivisions that contain protected water features or water quality resource areas.

19.322.8 Prohibited Uses.

A. Following adoption of this chapter, new structures, development or activity other than those allowed in subsections 19.322.4 through 19.322.7 are prohibited in the water quality resource area.

B. Uncontained areas of hazardous materials. This prohibition shall not be effective until the planning director has adopted administrative measures for its implementation, which shall be no later than June 1, 2003.

19.322.9 Application Requirements.

Applications for Type II and minor quasi-judicial review shall provide the following information in addition to the information required for the base zone:

A. A topographic map of the site at contour intervals of five (5) feet or less showing a delineation of the water quality resource area, which includes areas shown on the Water Quality and Flood Management Area map, and that meets the definition of water quality resource areas in Table 1.

B. The location of all existing natural features including, but not limited to, all trees of a caliper greater than six (6) inches diameter at breast height (DBH), natural drainages on the site, springs, seeps, and outcroppings of rocks or boulders within the water quality resource area.

C. Location of wetlands. Where wetlands are identified, the applicant shall follow the division of state lands wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist and will be accepted only after approval by the Oregon division of state lands.

D. An inventory and location of existing debris and noxious materials.

E. An assessment of the existing condition of the water quality resource area in accordance with Table 2.

F. An inventory of vegetation, including percentage ground and canopy coverage.

G. Alternatives analysis demonstrating that:

1. No practicable alternatives to the requested development exist that will not disturb the water quality resource area; and
2. Development in the water quality resource area has been limited to the area necessary to allow for the proposed use; and
3. The water quality resource area can be restored to an equal or better condition in accordance with Table 2; and
4. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized.

H. For applications seeking an alteration, addition, rehabilitation or replacement of existing structures located within the water quality resource area:

1. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the water quality resource area than the one proposed; and
2. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the water quality resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
3. Provide mitigation to ensure that impacts to the functions and values of the water quality resource area will be mitigated or restored to the extent practicable.
 - I. A water quality resource area mitigation plan that contains the following information:
 1. A description of adverse impacts that will be caused as a result of development.
 2. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, Table 2.
 3. A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.
 4. A map showing where the specific mitigation activities will occur.
 5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.
 - J. All information contained in the application submission requirements and site plan checklist forms prescribed by the planning director.
 - K. The application fee as adopted by the city council.

19.322.10 Development Standards.

Applications for development or land disturbance on properties that contain water quality resource areas shall demonstrate compliance with the following standards:

- A. The water quality resource area shall be restored and maintained in accordance with the mitigation plan and the specifications in Table 2.
- B. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the water quality resource area.
- C. Where existing vegetation has been removed, the site shall be revegetated as soon as practicable.
- D. Prior to construction, the water quality resource area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as may be allowed by this chapter. Such markings shall be maintained until construction is complete.
- E. Stormwater pre-treatment facilities:

1. The stormwater pre-treatment facility may encroach a maximum of twenty-five (25) feet into the outside boundary of the water quality resource area of a primary water feature; and
 2. The area of encroachment must be replaced by adding an equal area to the water quality resource area on the property.
- F. Additions, alterations, rehabilitation and replacement of lawful structures.
1. For existing structures, roadways, driveways, accessory uses and development which are nonconforming, this chapter shall apply in addition to the nonconforming use regulations of the city.
 2. Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development shall not encroach closer to the protected water feature than the existing structures, roadways, driveways, accessory uses and development.
- G. Off-site Mitigation. Offsite mitigation shall not be used to meet mitigation requirements of this chapter.
- H. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution or sedimentation to the adjacent water quality resource area.
- I. Where practicable, the types, sizes and intensities of lights must be placed so that they do not shine directly into the natural resource locations.
- J. Where proposed, development of trails, rest points, viewpoints and other facilities for the enjoyment of the resource must be done in such a manner so as to reduce impacts on the natural resource while allowing for the enjoyment of the resource.
- K. Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, except where mitigation is approved, so as to provide a transition between the proposed development and the natural resource, provide opportunity for food, water and cover for animals located within the water quality resource.
- L. Storm water flows as a result of proposed development within and to natural drainage courses shall not exceed pre-development flows.
- M. Road crossings of major natural drainage courses will be minimized as much as possible.
- N. The construction phase of the development must be done in such a manner to safeguard the resource portions of the site that have not been approved for development.

19.322.11 Variances.

- A. The purpose of this section is to ensure that compliance with this ordinance does not cause unreasonable hardship. To avoid such instances, the requirements of this ordinance may be varied. Variances are also allowed when strict application of this ordinance would unreasonably deprive an owner of economically viable use of land.
- B. This section applies in addition to the standards governing proposals to vary the requirements of

the base zone.

C. A variance to avoid the unreasonable loss of economically viable use of a lot that contains protected water features is permitted. Applicants must demonstrate that without the proposed variance, the reasonable economic use of the property would be denied. The applicant must show that no other development proposal could result in permission for an economically viable use of the property.

D. Variance Conditions.

The planning commission may impose such conditions as are deemed necessary to minimize adverse impacts that may result from granting relief from provisions of this chapter. If a variance is granted, it shall be subject to the following conditions:

1. The minimum width of the vegetated corridor shall be twenty-five (25) feet on each side of a primary protected water feature.
2. No more than twenty-five percent (25%) of the length of the water quality resource area for a primary protected water feature within a development site can be less than twenty-five (25) feet in width on each side of the water feature.

19.322.12 Map Administration.

A. The purpose of this section is to provide a process for amending the Water Resource Quality Map to add water resources and correct the location of protected water features and the water quality resource areas.

B. Map Corrections, Deletions.

1. Improperly mapped water features shown on the Milwaukie Water Quality Maps may be deleted by administrative review in accordance with 19.1011.2 subject to the following criteria:

a. In the case of wetlands, submission of a wetland delineation prepared by a professional wetland scientist in accordance with the 1996 Oregon Freshwater Wetland Assessment Methodology demonstrating that the site does not contain wetlands.

b. In the case of drainages, submission of a hydrology report prepared by a professional engineer demonstrating that the drainage does not meet the definition of a protected resource.

2. The planning director shall confer with the department of state lands and metro to confirm delineation and hydrology reports as may be needed prior to issuing a notice of decision on a requested map deletion.

3. The city shall amend the Water Quality Resource Map if the wetland or hydrology report demonstrates:

a. That a primary protected water feature no longer exists because the area has been legally filled, culverted or developed prior to the adoption of this chapter; or

b. The boundaries of the water quality resource area have changed since adoption of the Water Quality and Flood Management Areas Map; or

c. An error in the original mapping has been demonstrated.

C. Map Correction, Additions and Modifications. Map corrections that require the addition of a protected water feature to the water quality map shall be made in accordance with 19.900 Amendments.

D. Modification of the water quality resource area. To modify the water quality resource area, the applicant shall demonstrate that the modification will offer the same or better protection of the protected water feature, water quality resource area and flood management area by:

1. Preserving a vegetated corridor that will separate the protected water feature from proposed development; and
2. Preserving existing vegetated cover or enhancing the water quality resource area sufficient to assist in maintaining or reducing water temperatures in the adjacent protected water feature; and
3. Enhancing the water quality resource area sufficient to minimize erosion, nutrient and pollutant loading into the adjacent protected water feature; and
4. Protecting the vegetated corridor sufficient to provide filtration, infiltration and natural water purification for the adjacent protected water feature; and
5. Stabilizing slopes adjacent to the protected water feature.

Table 1

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor
Primary Protected Water Features¹	< 25%	<ul style="list-style-type: none"> • Edge of bank full flow or 2-year storm level; • Delineated edge of Title 3 wetland 	50 feet
Primary Protected Water Features¹	> 25% for 150 feet or more ⁵	<ul style="list-style-type: none"> • Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland 	200 feet

Primary Protected Water Features¹	> 25% for less than 150 feet ⁵	<ul style="list-style-type: none"> • Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland 	Distance from starting point of measurement to top of ravine (break in > 25% slope) ³ , plus 50 feet. ⁴
Secondary Protected Water Features²	< 25%	<ul style="list-style-type: none"> • Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland 	15 feet
Secondary Protected Water Features²	> 25% ⁵	<ul style="list-style-type: none"> • Edge of bankful flow or 2-year storm level; • Delineated edge of Title 3 wetland 	50 feet

¹ Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs.

² Secondary Protected Water Features include intermittent streams draining 50—100 acres.

³ Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the > 25% slope (see slope measurement in Appendix).

⁴ A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

⁵ Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature.

Table 2

WATER QUALITY RESOURCE AREA REQUIREMENTS

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS APPLICABLE TO PORTIONS OF THE WATER QUALITY RESOURCE AREA DISTURBED DURING DEVELOPMENT OR LAND DISTURBANCE
Good Existing Corridor:	Submit an inventory of vegetation in areas proposed to be disturbed and a plan for mitigating water quality impacts related to the development, including:

<p>Combination of trees, shrubs and groundcover are 80% present, and there is more than 50% tree canopy coverage in the vegetated corridor.</p>	<p>sediments, temperature and nutrients; sediment control; temperature control</p> <p>or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ's 303 (d) list.</p> <p>Inventory and remove debris and noxious materials.</p>
<p>Marginal Existing Vegetated Corridor:</p> <p>Combination of trees, shrubs and groundcover are 80% present, and 25—50 percent canopy coverage in the vegetated corridor.</p>	<p>Vegetated disturbed and bare areas with non-nuisance plantings from Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p> <p>Revegetate with native species using a city approved plan developed to represent the vegetative composition that would naturally occur on the site.</p> <p>Revegetation must occur during the next planting season following site disturbance. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.</p> <p>Restore and mitigate according to approved plan using non-nuisance plantings from Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p>
<p>Degraded Existing Vegetated Corridor:</p> <p>Less vegetation and canopy coverage than Marginal Vegetated Corridors, and/or greater than 10% surface coverage of any non-native species.</p>	<p>Vegetate disturbed and bare areas with appropriate plants from Native Plants List.</p> <p>Remove non-native species and revegetate with non-nuisance plantings from Native Plants List.</p> <p>Plant and seed to provide 100 percent surface coverage.</p> <p>Restore and mitigate according to approved plan using non-nuisance plantings from Native Plants List.</p>

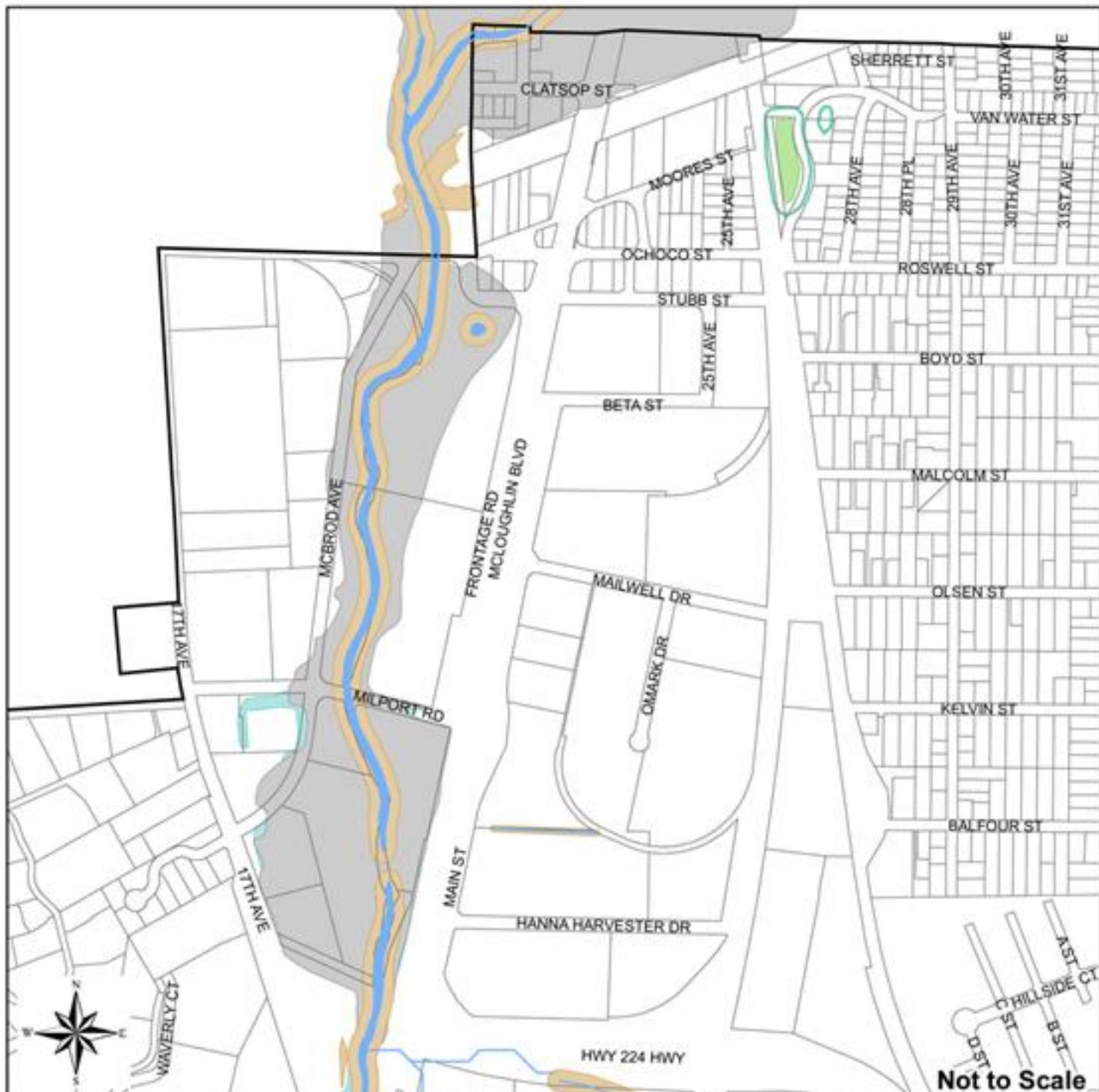
Inventory and remove debris and noxious materials.

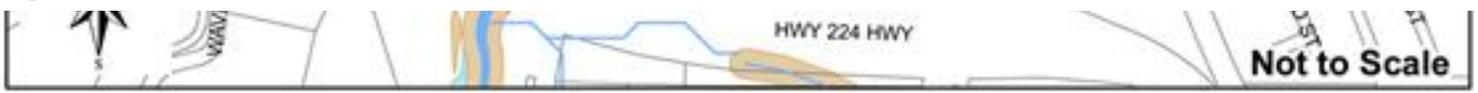
(Ord. 1912, 2002; Ord. 1712 (part), 1991)

Water Quality Resources

Lower Johnson Creek

Map 1 of 6



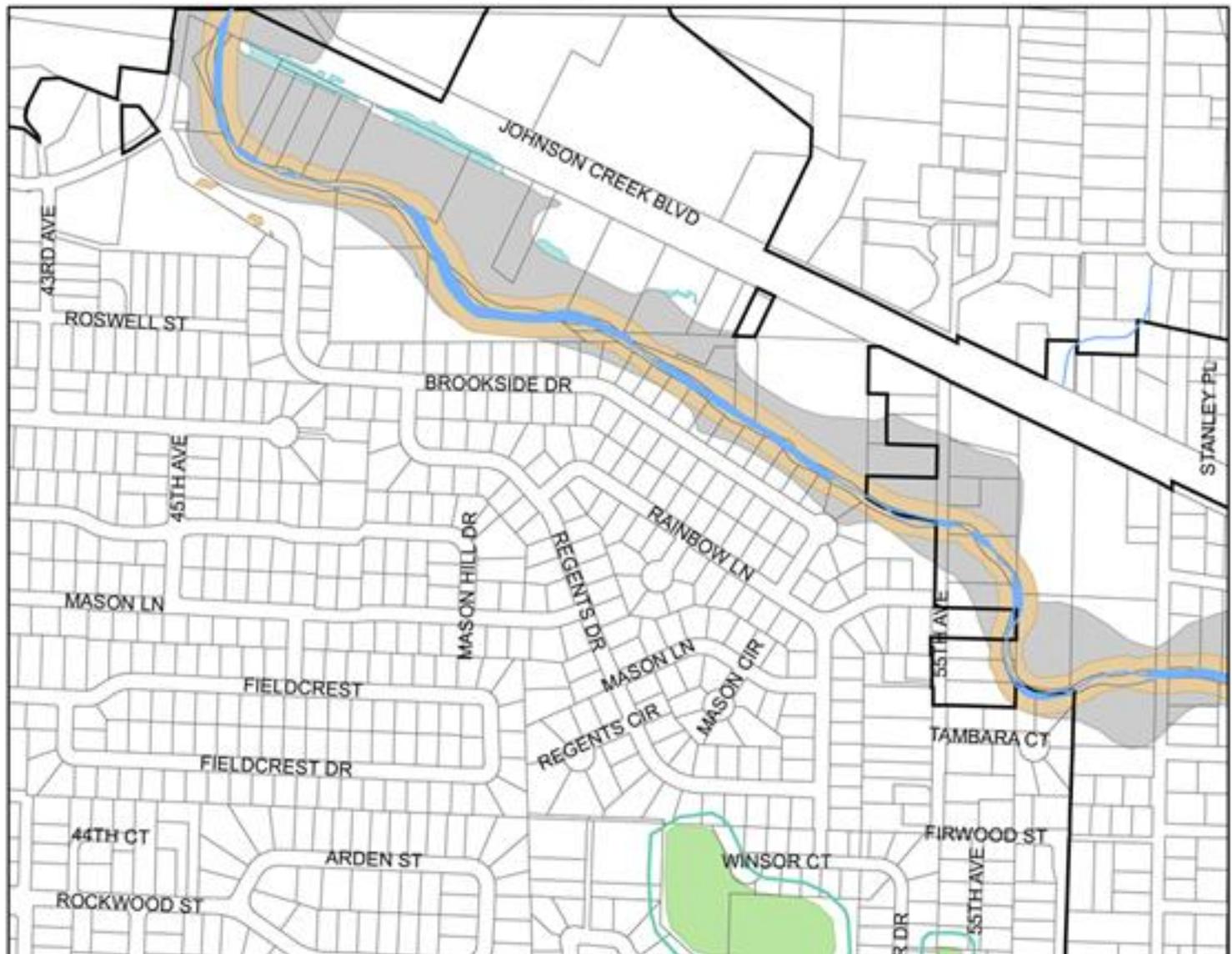


- Milwaukie Tax Lots
- Drainage Course
- Wetland Buffer
- Vegetated Corridor
- Wetlands
- FEMA 100-Year Flood
- February 1996 Flood

Features shown on this map are based on the August 1998 Metro Water Quality and Flood Management Area Map. The purpose of this map is to identify areas subject to Milwaukie Municipal Code 19.322- Water Quality Resource Regulations and Title 18 Flood Hazard Regulations.

Adopted Ord. #1912 December 17, 2002

Water Quality Resources Upper Johnson Creek Map 2 of 6



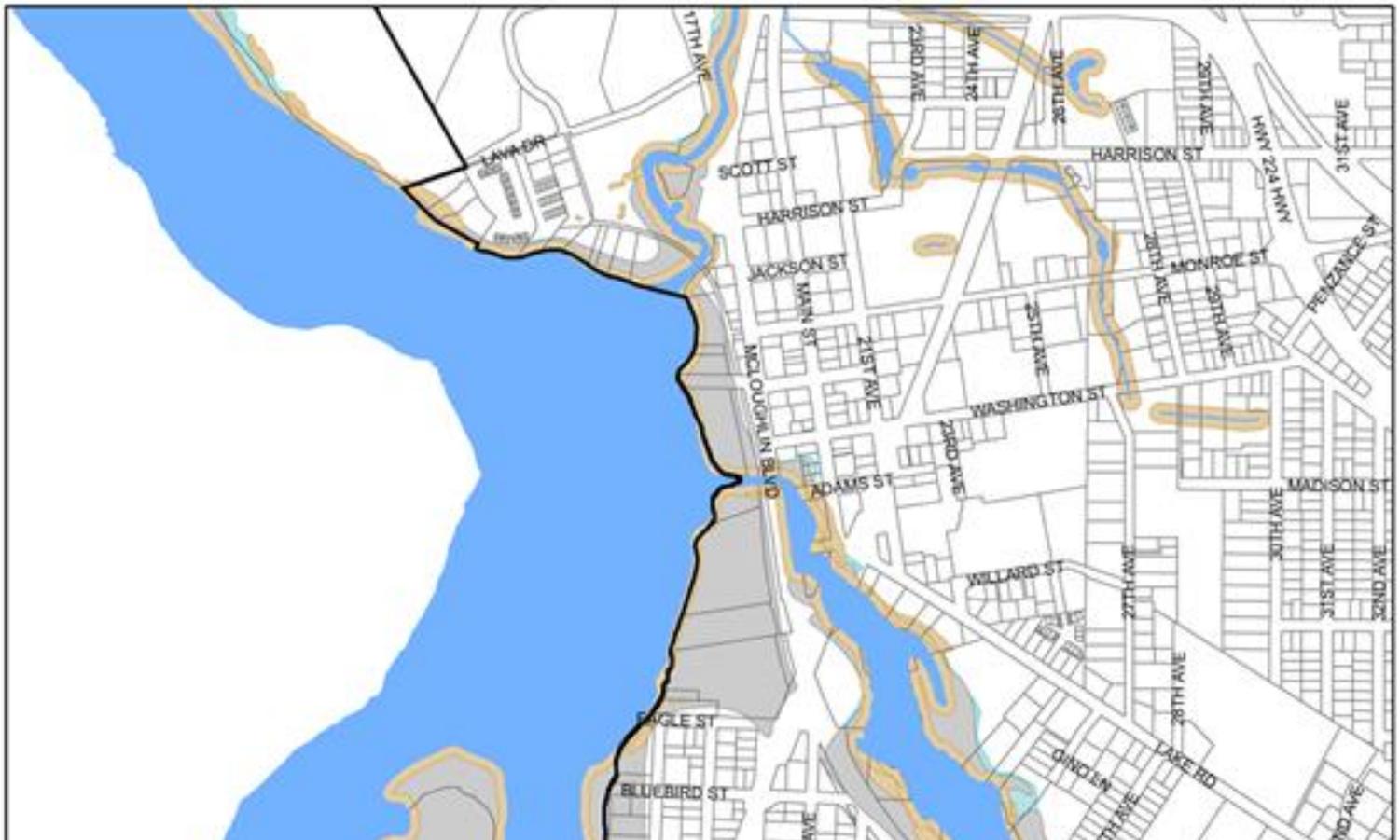


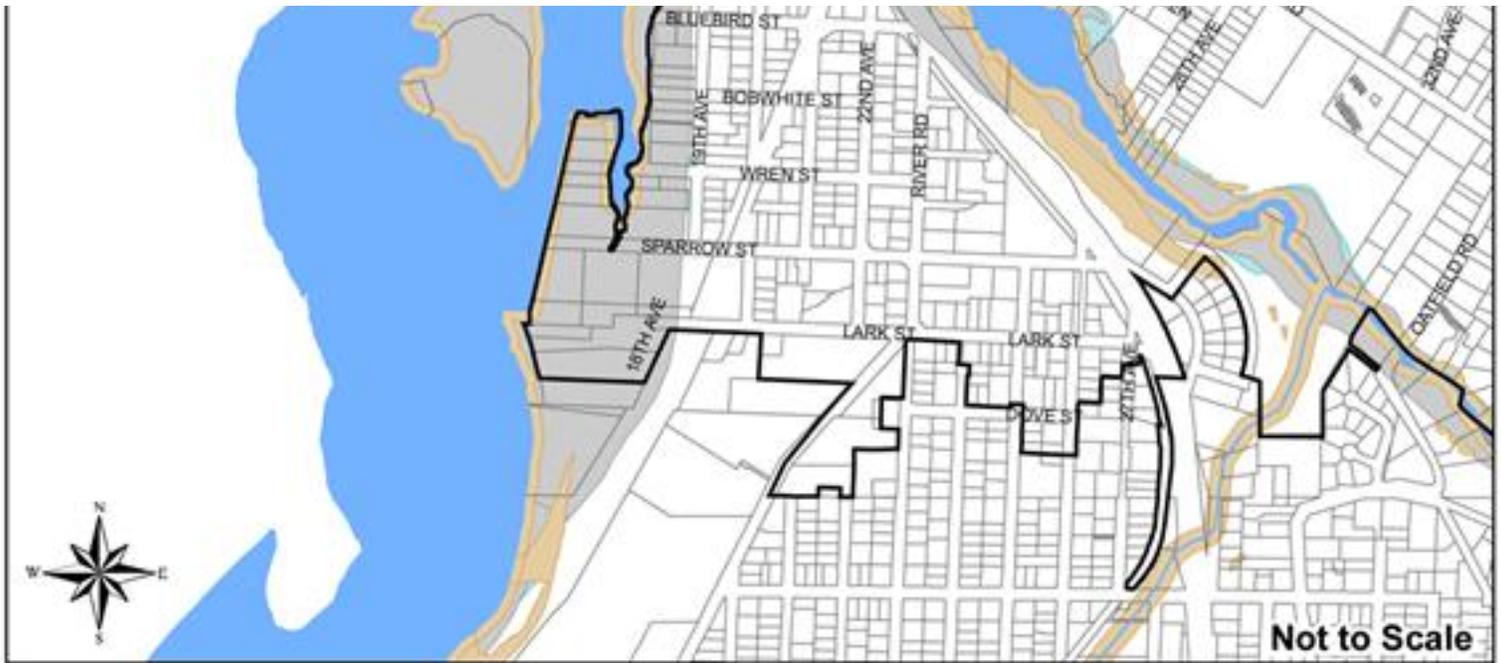
-  Tax Lots
-  Drainage Course
-  Wetland Buffer
-  Vegetated Corridor
-  Wetlands
-  FEMA 100-Year Flood
-  February 1996 Flood

Features shown on this map are based on the August 1998 Metro Water Quality and Flood Management Area Map. The purpose of this map is to identify areas subject to Milwaukie Municipal Code 19.322- Water Quality Resource Regulations and Title 18 Flood Hazard Regulations.

Adopted Ord. #1912 December 17, 2002

Water Quality Resources Willamette River and Kellogg Lake Map 3 of 6





-  Tax Lots
-  Drainage Course
-  Vegetated Corridor
-  FEMA 100-Year Flood
-  February 1996 Flood

Features shown on this map are based on the August 1998 Metro Water Quality and Flood Management Area Map. The purpose of this map is to identify areas subject to Milwaukie Municipal Code 19.322- Water Quality Resource Regulations and Title 18 Flood Hazard Regulations.

Adopted Ord. #1912 December 17, 2002

Water Quality Resources Lower Kellogg Creek Map 4 of 6





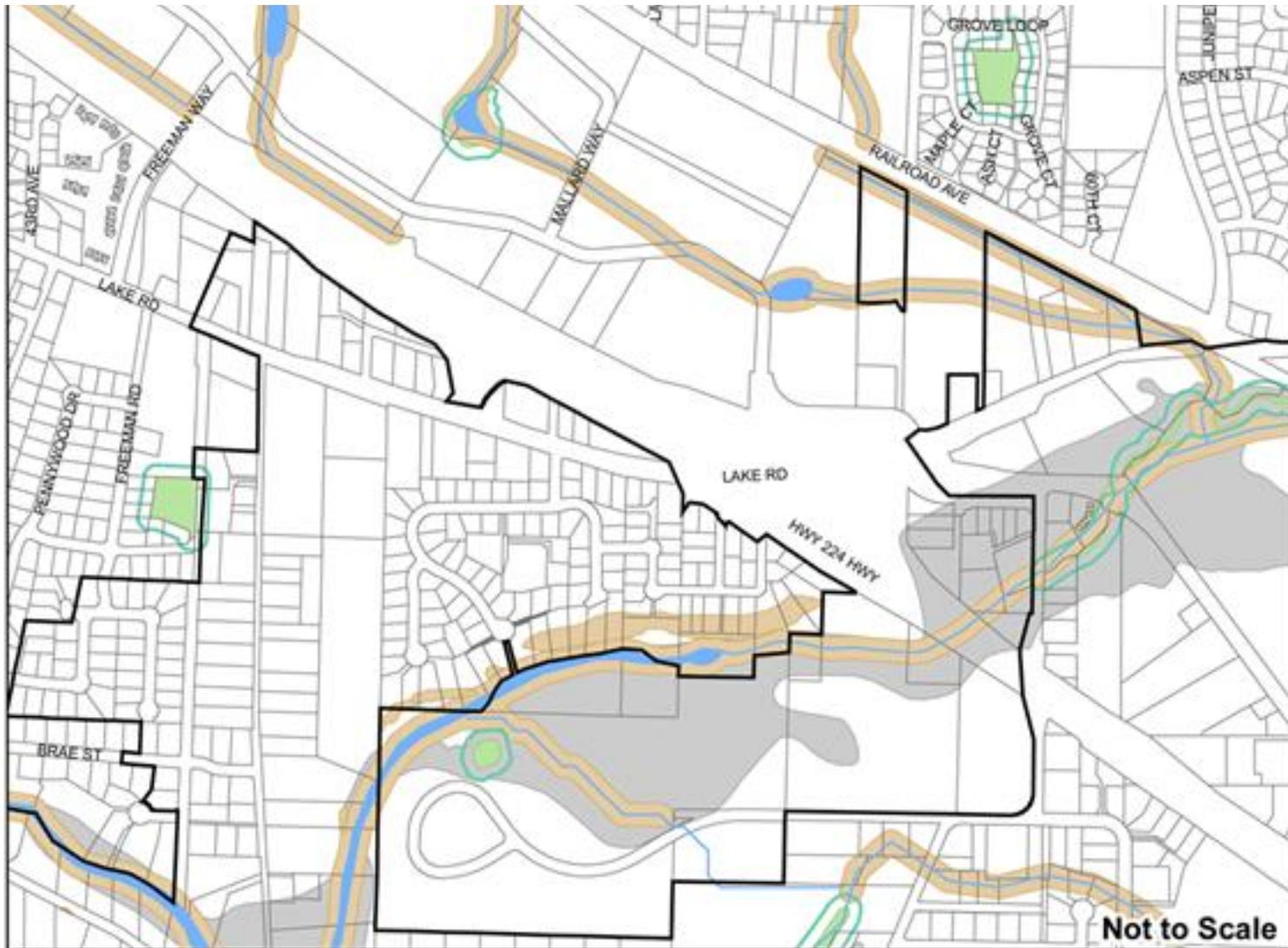
-  Tax Lots
-  Drainage Course
-  Wetland Buffer
-  Vegetated Corridor
-  Wetlands
-  FEMA 100-Year Flood
-  February 1996 Flood

Features shown on this map are based on the August 1998 Metro Water Quality and Flood Management Area Map. The purpose of this map is to identify areas subject to Milwaukie Municipal Code 19.322- Water Quality Resource Regulations and Title 18 Flood Hazard Regulations.

Adopted Ord. #1912 December 17, 2002

Water Quality Resources Upper Kellogg Creek and Mt. Scott Creek Map 5 of 6



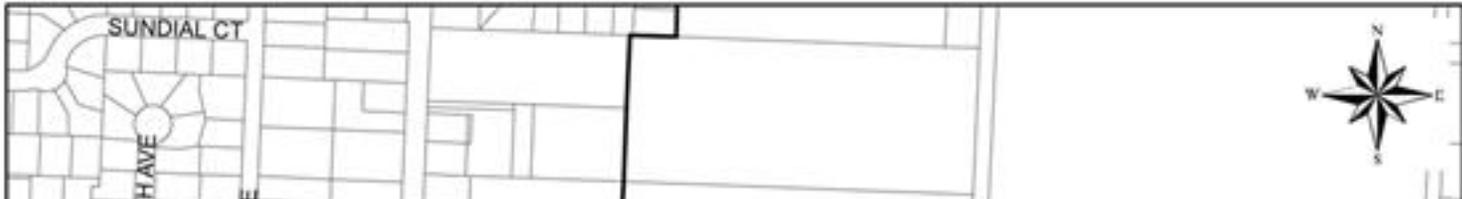


- Tax Lots
- Drainage Course
- Wetland Buffer
- Vegetated Corridor
- Wetlands
- FEMA 100-Year Flood
- February 1996 Flood

Features shown on this map are based on the August 1998 Metro Water Quality and Flood Management Area Map. The purpose of this map is to identify areas subject to Milwaukie Municipal Code 19.322- Water Quality Resource Regulations and Title 18 Flood Hazard Regulations.

Adopted Ord. #1912 December 17, 2002

Water Quality Resources Linwood Neighborhood Map 6 of 6





-  Tax Lots
-  Drainage Course
-  Wetland Buffer
-  Vegetated Corridor
-  Wetlands
-  FEMA 100-Year Flood
-  February 1996 Flood

Features shown on this map are based on the August 1998 Metro Water Quality and Flood Management Area Map. The purpose of this map is to identify areas subject to Milwaukie Municipal Code 19.322- Water Quality Resource Regulations and Title 18 Flood Hazard Regulations.

Adopted Ord. #1912 December 17, 2002

19.323 Historic Preservation Overlay zone HP.

In an HP zone the following regulations shall apply:

19.323.1 Purpose. The intent and purpose of this section is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of sites, structures, districts, objects, and buildings within the city that reflect the city’s unique architectural, archaeological, and historical heritage, and to facilitate preservation of such properties in order to:

- A. Safeguard the city’s heritage as embodied and reflected in such resources;
- B. Encourage public knowledge, understanding, and appreciation of the city’s history and culture;
- C. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;
- D. Promote the enjoyment and use of cultural resources appropriate for the education and recreation of the people of the city;
- E. Preserve diverse and significant architectural styles reflecting phases of the city’s history, and encourage complementary design and construction relative to cultural resources;
- F. Enhance property value and increase economic and financial benefits to the city and its residents;
- G. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses;
- H. Integrate the management of cultural resources and relevant data into public and private land management and development processes; and
- I. Implement the goals and policies of the comprehensive plan.

19.323.2 Applicability.

A. Section 19.323 shall apply to all historic resources within the city as identified in the historic resources element of the comprehensive plan.

B. An historic resource may be designated HP on the zoning map and placed on the city historic and cultural resources inventory following the procedures of subsection 19.323.4 of this section.

19.323.3 Definitions.

Alteration, Landmark. “Landmark alteration” means a change, addition, or modification of a landmark which affects the exterior of the landmark, excluding routine maintenance as defined in subsection 19.323.6 of this section.

“Commission” means the city of Milwaukie planning commission.

“Committee” means the city of Milwaukie design and landmarks committee.

“Contributing” means an historic resource ranking whereby buildings, sites, structures, or objects are less significant examples of architecture or of lesser historical association. These, over time, may become a source for additional “Significant” resources. To be designated as “Contributing,” an historic resource must receive a rating score level of fifty to sixty percent on the evaluation worksheet or score a high of

ten in at least one of the categories of the evaluation worksheet.

“Demolish” means to raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a designated resource or building in an historic district.

“Evaluation worksheet” means a rating system used by the city to rank historic resources as to their historic, architectural or environmental characteristics. The ranking system is numerical with a top score of eighty-six and is part of the historic and cultural resources inventory, located in the background paper.

“Historic and Cultural Resources Inventory” or “inventory” means the 1988 Milwaukie Historic and Cultural Resources Inventory included as part of the historic resources background paper of the comprehensive plan.

“Historic or cultural resource” or “resource” means any site, object, building, ensemble, district or structure which is included in the historic and cultural resources inventory.

“Landmark” means a cultural resource that has been designated by the city council as per subsection 19.323.4 of this section.

“Significant” means an historic resource ranking whereby important buildings, sites, structures, or objects in Milwaukie are distinguished by outstanding qualities of architecture, relationship to environment, and/or historic associations. To be designated as “Significant,” an historic resource must receive a rating score level of sixty percent or greater on the evaluation worksheet and be at least fifty years old, or score a high of ten in at least two of the categories of the evaluation worksheet, or be listed on the National Register of Historic Places.

“Unrankable” means historic resources that lack sufficient information to be ranked. When that information is available, those found to be “Significant” or “Contributing” shall be recommended by the planning commission for designation as “Landmarks.”

19.323.4 Process for Designation or Deletion of a Landmark.

A. Application Request. The owner of record, contract purchaser, or an agent of any of the foregoing, of property within the city may make application for resource designation or deletion. The application shall be in such form and detail as the planning director prescribes and will be the same as the major quasi-judicial review process of subsection 19.1011.4 of this title. The application shall be submitted to the planning director. The planning commission or the city council may also initiate such proceedings on their own motion.

B. Planning Commission. The commission shall conduct a public hearing to evaluate the request. The commission shall enter findings and make a written recommendation to the city council.

C. City Council. The city council shall conduct a public hearing to consider the recommendation of the planning commission on the request and shall either approve, approve with conditions, or deny the request.

D. Pending Permits. No new construction, exterior alteration, demolition, or removal permits for any improvement, building, or structure relative to a proposed landmark shall be issued while any public hearing or any appeal affecting the proposed action is pending.

E. Interim Measures. Upon a request for new construction, exterior alteration, or demolition of a resource which is on the inventory but designated as “Unrankable,” for lack of information regarding location, quality, or quantity, the applicant shall be required to first complete the designation process for the resource as outlined in this subsection 19.323.4.

19.323.5 Alteration and Development.

A. Review Required. Any exterior alteration of a landmark shall be subject to review under the provision of this subsection 19.323.5. This review applies only to those resources determined to be “Significant” on the inventory. Resources designated “Unrankable” must complete the process referred to in subsection 19.323.4.

B. Application Request. The application shall be submitted to the planning director. The application shall be in such form and detail as the planning director prescribes. Applications subject to subsection C below shall follow the Type I administrative review process of subsection 19.1011.1.

C. Administrative Approval.

1. The planning director shall approve alteration requests if:

a. There is no change in the appearance and materials of the existing landmark; or
b. The proposed alteration duplicates the affected exterior building features as determined from an historic photograph, original building plans or other evidence of original building features.

2. The following minor alterations are exempt from review, provided these actions meet the above standards:

a. Replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match the appearance of those that were typically used on similar-style buildings;

b. Repairing or providing a compatible new foundation that does not result in raising or lowering the building elevation;

c. Replacement of building material, when required due to deterioration of material, with building material that matches the appearance of the original material;

d. Repair and/or replacement of roof materials with the same kind of roof materials existing, or with materials which are in character with those of the original roof;

e. Application of storm windows made with wood, bronze, or flat finished anodized aluminum, or baked enamel frames which complement or match the color detail and proportions of the building;

f. Replacement of wood sashes with new woods sashes, or the addition of wood sashes when such is consistent with the original historic appearance;

- g. Installation of solar equipment so that it complies with subsection (C)(2)(e) above;
- h. The installation of security doors and security lighting systems.

D. Other Requests. All requests that do not meet the provisions of subsection C above shall be forwarded to the commission. The commission's decision will be final after notice and public hearing held the same as subsection 19.1011.3 of this title (Minor Quasi-Judicial Review). The commission shall approve or disapprove issuance of the permit. The commission may attach conditions to the approval for permit which must be adhered to for the permit to remain valid.

E. Criteria and Findings. Approval of a permit to alter a landmark or any property in the HP district shall be based on findings of adherence to the following guidelines:

1. Retention of Original Construction. Distinguishing original qualities defining a resource's character shall not be destroyed. Removal or alteration of historic materials or distinctive architectural features should be avoided when possible.
2. Building Height. Existing building heights should be maintained. Alteration of roof pitches shall be avoided. Raising or lowering a building's permanent elevation when constructing a foundation shall be avoided, except as required by building code or floodplain development permit.
3. Horizontal Additions. The scale and proportion of building additions, including the relationship of windows to walls, shall be visually compatible with the traditional architectural character of the historic building. Contemporary design for alterations and additions is acceptable if the design respects the building's original design and is compatible with the original scale, materials, and window- and door-opening proportions of the building.
4. Windows. Window replacements shall match the visual qualities of original windows as closely as possible. Wood window frames are preferred in meeting this standard. However, if nonwood replacements exhibit similar visual qualities as their wooden counterparts, they may be acceptable. The original number of window panes shall be maintained or restored when replacements are required.
5. Restoration Possible. Except where building code precludes it, new additions or alteration to buildings shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original building could be restored.
6. Signs and Lighting. Signs, lighting, and other appurtenances (such as walls, fences, awnings, and landscaping) shall be visually compatible with the original character of the building.
7. Time Period Consistency. Buildings shall be recognized as products of their own time. Alterations that have no historical basis or which seek to create an earlier appearance shall be avoided.
8. Visual Integrity/Style. Distinctive stylistic features, such as a line of columns, piers, spandrels, or other primary structural elements, or examples of skilled craftsmanship which characterize a building, shall be maintained or restored as far as is practicable.

9. **Replacement or Additional Materials.** Whenever possible, deteriorated architectural features shall be repaired rather than replaced. In the event replacement of an existing feature is necessary, or an addition is proposed, new materials should match those of the original building, to the extent possible, in composition, design, color texture, and other visual qualities.

10. **Buffering.** An appropriate buffer or screen, as provided under Section 19.416, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

F. **Appeals.** Appeals shall be heard by the city council as per Section 19.1002 of this title.

19.323.6 Maintenance and Repair. Nothing in this title shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, material, or appearance of such feature, or which the building official shall certify is required for public safety due to an unsafe or dangerous condition.

19.323.7 Demolition.

A. **Notification of Demolition Request.** If an application is made for a building permit to demolish all or part of a designated cultural resource, to the extent that the historic designation is affected, the building official shall, within seven days of the receipt of an application, transmit a copy of the application to the commission. This review applies to all resources determined to be “Significant” or “Contributing” on the inventory. Resources determined to be “Unrankable” shall first complete the process referred to in subsection 19.323.4.

B. **Property Owner Action.** For a period of not less than thirty days prior to the public hearing the property owner shall do as follows:

1. List the property for sale with a real estate agent for a period not less than ninety days with the intent of selling or relocating the resource intact. Such real estate agent shall advertise the property in local and state newspapers of general circulation in the area. This listing requirement can be reduced if the commission approves the demolition request;

2. Give public notice by posting a visible “For Sale” sign on the property which shall be in bold letters, no less than six inches in height, and shall read as a minimum: **HISTORIC BUILDING FOR SALE—WILL BE DEMOLISHED UNLESS MOVED;**

3. Prepare and make available any information related to the history and sales of the property to all individuals, organizations, and agencies who inquire.

C. **Public Hearing Review.** The commission shall hold a public hearing within forty-five days of application. The procedures shall be the same as those in subsection 19.1011.3, Minor Quasi-Judicial Review.

D. **Review Criteria and Findings.** In determining the appropriateness of the demolition, as proposed in an application for a building permit, the commission shall consider the following:

1. All plans, drawings and photographs as may be submitted by the applicant;
2. Information presented at a public hearing held concerning the proposed work;
3. The city comprehensive plan, including the economic, social, environmental and energy consequences;
4. The purpose as set forth in subsection 19.323.1;
5. The criteria used, and findings and decisions made, in the original designation of the landmark or historic district in which the property under consideration is located;
6. The historical and architectural style, design, arrangement, materials, or its appurtenant fixtures; the relationship of such features to similar features of other buildings within the district; and the position of the building or structure in relation to public rights-of-way and to other buildings and structures in the area;
7. The effects of the proposed work upon the protection, enhancement, perpetuation, and use of the district which cause it to possess a special character or special historic or aesthetic interest or value;
8. Whether denial of the permit would involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this title.

E. Approval of Demolition Request/Appeals. The commission may approve the demolition request after considering the criteria under subsection D above. Action by the commission approving the issuance of permit for demolition may be appealed to the city council by any aggrieved party, by filing a notice of appeal, in the same manner as provided in subsection 19.323.6(F). If no appeal is filed, the building official shall issue the permit in compliance with all other codes and ordinances of the city.

F. Denial/Stay of Demolition.

1. The commission may reject the application for permit if it determines that in the interest of preserving historic values, the property should not be demolished. In that event, issuance of the permit shall be suspended for a period not exceeding thirty days from the date of public hearing. The commission may invoke an extension of the suspension period if it determines that there is a program or project under way which could result in public or private acquisition of the landmark, and that there is reasonable ground to believe that such program or project may be successful. Then the commission, at its discretion, may extend the suspension period to thirty days, to a total of not more than one hundred twenty days from the date of public hearing for demolition permit.
2. If all such programs or projects are demonstrated to the commission to be unsuccessful, and the applicant has not withdrawn his application for demolition permit, the building official shall issue such permit, if the application otherwise complies with the codes and ordinances of the city.
3. Action by the commission suspending issuance of the permit for demolition may be appealed to the

city council by the applicant for the permit, by filling a notice of appeal in the same manner as provided in subsection 19.323.6(F).

19.323.8 Uses Permitted.

A. **Primary Uses.** A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this section.

B. **Conditional Uses.** Except within low and moderate density residential designations, uses identified in subsection C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of subsection 19.323.6. Such uses may also be allowed in the low and moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on any street. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Chapter 19.600 of the zoning ordinance, Conditional Uses.

C. The following uses may be permitted after a public hearing conducted pursuant to subsection 19.1011.3 of the zoning ordinance:

1. Art and music studios;
2. Galleries;
3. Offices/clinics;
4. Craft shops;
5. Bed and breakfast establishments;
6. Gift shops;
7. Museums;
8. Catering services;
9. Bookstores;
10. Boutiques;
11. Restaurants;
12. Antique shops;
13. Community centers for civic or cultural events;
14. Other uses determined by the planning commission to be similar to those listed above. (Ord. 1936 § 4 (Exh. 1) (part), 2004; Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1880 (part), 2000)

19.324 Business Industrial zone BI.

19.324.1 Purpose. This section is adopted to implement the policies of the comprehensive plan for industrial land uses providing a mix of clean, employee-intensive, industrial and office uses, with associated services, in locations supportive of mass transit and the regional transportation network.

19.324.2 Uses Permitted Outright.

A. The following business and industrial uses are allowed outright, subject to the standards of subsection 19.324.6.

1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site;
2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials;
3. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing;
4. Trade schools primarily serving the business community within the area.

B. Business and professional offices, including product design, sales, service, packaging; corporate headquarters or regional offices.

C. Warehousing and distribution.

D. Any other use similar to the above uses but not listed elsewhere.

19.324.3 Accessory Uses.

A. Uses accessory to and in conjunction with uses permitted outright may include the following:

1. Employee lounges and dining rooms, employee daycare facilities, conference rooms for tenant use, newsstands, central mail room and self-service postal and banking facilities and product information and display areas;
2. Executive, administrative, design, or product showroom offices provided in conjunction with uses listed under subsection 19.324.2 of this section;
3. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, exercise and dance studios, community meeting rooms, lounges, playgrounds, tennis and other courts, bike and walking trails, and pedestrian plazas and courts, which are provided in association with uses listed in subsection 19.324.2 of this section;
4. Rental and development information offices, handyman and maintenance services, and other business offices and services in association with allowed uses in the development;
5. Recycling center, provided that any storage of materials shall be adequately screened;
6. Accessory uses and structures not otherwise prohibited which are customarily accessory and

incidental to any outright permitted or limited use;

7. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;

8. Retail outlets associated with manufacturing uses as outlined in subsection 19.324.2(A)(2) of this section. Products sold at the accessory retail outlet shall be primarily those assembled or manufactured on-site. The accessory retail outlet shall be located within the associated manufacturing building and occupy up to a maximum of twenty-five percent of the floor area of the associated manufacturing building or four thousand square feet, whichever is less.

19.324.4 Limited Uses.

A. Limited retail or service uses may be allowed that primarily service the needs of BI zone clients, employees, and businesses, as opposed to the general public. These uses, subject to the provisions of subsection B below, shall include:

1. A restaurant or deli, offering at least breakfast and/or lunch items, without a drive-in or drive-through service;
2. Office supply and equipment, sales, or service;
3. Personal service businesses such as a barber, beauty parlor, tailor, dressmaking, shoe repair shop, self-service laundry, dry cleaning, photographer, instruction studios or similar uses;
4. A bank or other financial institution;
5. A computer or other similar small electronic office machines store, sales and service; and
6. Any other use similar and compatible to the above-listed uses.

B. Limitations and conditions on the development of the limited uses itemized above shall be as follows:

1. All limited uses shall be located, arranged, and integrated within the district to serve primarily the shopping and service needs of clients, businesses and employees of the district;
2. Limited uses may occupy up to a maximum of twenty-five percent (25%) of the square footage of a building. A limited use that is to be located in a building and exceeds twenty-five percent (25%) of the building's square footage shall be reviewed as a conditional use;
3. Maximum floor area for a limited use shall be four thousand (4000) square feet;
4. All limited uses shall comply with the standards under subsection 19.324.6.

19.324.5 Conditional Uses.

A. Conditional uses may be established in a business industrial district subject to review and action on the specific proposal, pursuant to Chapter 19.600, Conditional Uses. Approval shall not be granted unless the proposal satisfies the criteria in Chapter 19.600; and, in addition, the proposed use:

1. Will have minimal adverse impact on the appropriate development of outright permitted uses on abutting properties and the surrounding area considering location, size, design, and operating characteristics of the use;
2. Is compatible with the character and scale of uses allowed within the district and on a site no larger than necessary for the use and operational requirements of the use;
3. Will provide vehicular and pedestrian access, circulation, parking, and loading areas which are compatible with uses on the same site or adjacent sites; and
4. Is a needed service/product in the district, considering the mix of potential clientele and the need to maintain high-quality development in a highly visible area.

B. Uses allowed subject to the above conditions are:

1. Public and private community buildings, indoor and outdoor recreational facilities, such as swimming pools, racquetball clubs, athletic clubs, health and exercise spas, gymnasiums, tennis courts, playground, and other similar uses, developed to serve primarily the recreational needs of clients and employees of the district;
2. Miniwarehousing, ministorage, public storage and similar commercial facilities that lease storage space to the general public;
3. A limited use or uses that exceed twenty-five percent (25%) of the building's square footage as per subsection 19.324.4(B)(2) above.

19.324.6 Standards. In the BI district, the following standards shall apply to all uses:

- A. Lot size: None, except that lots created shall be of a size sufficient to fulfill the applicable standards of this district.
- B. Front yard: A front yard shall be at least twenty (20) feet unless additional setback is required in subsection E below.
- C. Side yard: No side yard shall be required except on corner lots where a side yard shall be at least ten (10) feet on the side abutting the street, unless additional setback is required in subsection E below.
- D. Rear yard: No rear yard shall be required except as provided in subsection E below.
- E. (Repealed by Ord. 1893)
- F. Off-street parking and loading: As specified in Chapter 19.500.
- G. Site access: One curb cut (forty-five (45) feet maximum) per one hundred fifty (150) feet of street frontage, or fraction thereof, for industrial uses; and one curb cut per one hundred (100) feet of street frontage or fraction thereof, for business park, limited or conditional uses.
- H. Height restriction: Maximum height of a structure shall be three (3) stories or forty-five (45) feet, whichever is less.

I. Landscaping: Fifteen percent (15%) of the site must be landscaped, except for sites adjacent to Hwy. 224, which shall provide landscaping to twenty percent (20%) of the site. This should consist of a variety of lawn, trees, shrubbery, and ground cover. Street trees must be provided along street frontages and within required off-street parking lots to help delineate entrances, provide shade and permeable areas for stormwater runoff. A bond or financial guarantee for landscape completion shall be required.

J. Screening and outside storage: Outside storage adjacent to International Way, Freeman Way, 37th Ave., Lake Road, or Hwy. 224 is prohibited. Outside storage in side or rear yards is allowed, provided it is enclosed by a sight-obscuring fence or vegetative screen.

K. Building Siting and Design. Buildings and sites shall be designed using the following principles:

1. Sites shall be developed to the maximum extent practicable, so that buildings have solar access and utilize other natural features in their design;

2. Assure that building placement and orientation and landscaping allow ease of security surveillance;

3. Design buildings with shapes, colors, materials, textures, lines, and other architectural design features which enhance the character of the district and complement the surrounding area and development, considering, but not limited to, the following techniques:

a. Use color, materials, and architectural design to visually reduce the scale and impact of large buildings,

b. Use building materials and features that are durable and consistent with the proposed use of the building, level of exposure to public view, and exposure to natural elements;

4. To the extent possible, screen or mask roof-mounted mechanical equipment, except solar collection apparatus, from view;

5. Orient major service activity areas (e.g., loading, delivery and garbage collection, etc.) of the development away from major streets;

6. Arrange use and buildings to maximize opportunities for shared circulation, access, parking, loading, pedestrian walkways and plazas, recreation areas, and transit-related facilities;

7. Provisions for bus shelters, bike racks, street furniture, kiosks, drinking fountains, art sculptures, and/or other pedestrian and transit amenities as required by Chapter 19.1400.

L. Nuisances: The use shall not be of a type or intensity which produces dust, odor, smoke, fumes, noise, glare, heat, or vibrations which are incompatible with other uses allowed in this zone; and the use does not produce off-site impacts that create nuisance as defined by the Oregon D.E.Q. and the city noise ordinance.

19.324.7 Validity of Uses. In the BI zone, uses that are subject to the provisions of this zone and were legally established/occupied on or prior to the effective date of the zone, shall be considered as legally approved permitted, limited, or conditional uses as described by the BI zone. (Ord. 1893 (part),

2001: Ord. 1891, 2001; Ord. 1854 (part), 1999)

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Title 19 ZONING

Chapter 19.400 SUPPLEMENTARY REGULATIONS**19.401 Accessory structures.**

- A. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys, and public and private easements.
- B. Multiple accessory structures are permitted subject to building separation, building coverage, and minimum vegetation requirements of the zoning district in which the lot is located.
- C. An accessory structure shall comply with all of the requirements of the Uniform Building Code.
- D. Accessory structures excluding fences, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.
- E. An accessory structure must maintain a minimum side and rear yard setback of five (5) feet, except where other requirements of this title are more restrictive.
- F. Alteration or modification of nonconforming accessory structures are subject to the provisions of Chapter 19.800 Nonconforming Uses and Structures.
- G. Pergolas, arbors, and trellises are permitted in yards in all residential zones. (Ord. 1907 (Attach. 2), 2002)

19.402 Accessory structures, limitations.

- A. Residential accessory structures excluding pools, uncovered decks and patios are subject to the following.
1. For lots ten thousand (10,000) square feet or less, the footprint of an accessory structure may not exceed five hundred (500) square feet. For lots greater than ten thousand (10,000) square feet the footprint of an accessory building may not exceed eight hundred fifty (850) square feet.
 2. An accessory structure may not exceed fifteen (15) feet in height as measured from the average finished grade within a ten- (10)-foot horizontal distance from the base of the building to the highest point of the roof.
 3. Flat roofs and shed roofs are prohibited on accessory structures that have a floor-to-ceiling height greater than nine (9) feet.
 4. The minimum roof pitch for accessory structures with other than a flat or shed roof is four (4)

inches rise for every twelve (12) inches of run.

5. The placement of fill to raise grade elevations that has the effect of exceeding building height limitations is prohibited.

6. Metal siding is prohibited on accessory structures with a footprint greater than one hundred twenty (120) square feet. For accessory structures greater than one hundred twenty (120) square feet, exterior siding and roofing materials that are commonly used on residential structures shall be used.

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

Fences, walls, or plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fence, wall, and planting standards to maintain unobstructed vehicle vision are to be provided by city public works as part of the clear vision determination process specified in Chapter 19.1400. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

1. Residential Zones and Residential Uses in all Zones. Maximum height is six (6) feet for rear, street side and side yards, forty-two (42) inches for front yards, except that for flag lots fences in the front yard may be six (6) feet. No electrified, barbed, or razor wire fencing is permitted.

2. Commercial Zones. Maximum height six (6) feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, following a Type II administrative review as per subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a six- (6)-foot-high sight-obscuring fence.

3. Industrial Zones. Maximum height eight (8) feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, except where such fencing is proposed adjacent to residential zones or residential uses, in which case such may be allowed following a Type II administrative review as per subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a sight-obscuring fence with a minimum height of six (6) feet.

In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a one-foot horizontal distance from the fence.

C. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to three (3) feet for an uncovered patio, deck, or swimming pool not exceeding eighteen (18) inches in height above the average grade of the adjoining ground (finished elevation). (Ord. 1907 (Attach. 2), 2002)

19.403 Accessory uses, general provisions.

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

- A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling.
- B. A greenhouse or hothouse may be maintained accessory to a dwelling provided nothing grown is sold on the premises.
- C. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed fifty in number and shall require the written consent of all owners of real property (or a part thereof) within one hundred (100) feet of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept.
- D. Keeping of colonies of bees shall be prohibited except that the planning commission may approve an application to keep not more than two (2) colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within one hundred (100) feet of any point on the boundary of the property on which the bees are proposed to be kept.
- E. Amateur and CB radio equipment and operations shall be considered an accessory use. Radio and television structures or towers outside of dwellings shall be subject to building regulations. Such structures and towers shall conform to height, yard, and other standards of the zoning ordinance. Any deviation from these standards will require a variance by the planning commission. Operational characteristics and limitations of such equipment shall be as established and administered by the FCC. (Ord. 1907 (Attach. 2), 2002: Ord. 1893 (part), 2001: Ord. 1880 (part), 2000)

19.404 Type 1 accessory dwelling unit.

Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following.

19.404.1 Purpose. To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or modifications must be designed so that the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.

19.404.2 Approval Required. Type I accessory dwelling units are subject to subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information.

A. Completed application forms;

B. Site plan showing the following:

1. Lot lines and location and dimensions of existing and proposed structures with yard dimensions,
2. Location and dimension of existing and proposed parking,
3. Location of structures on adjoining lots;

C. Dimensioned architectural drawings showing existing and proposed floor plans and elevations.

Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.

19.404.3 General.

A. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.

B. Notwithstanding the maximum allowable gross floor area of six hundred (600) square feet, the accessory dwelling unit shall not exceed forty percent (40%) of the gross floor area of the primary structure.

C. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28, Capital Improvements.

19.404.4 Ownership and Tenancy. Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

19.404.5 Business License Required. A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

19.404.6 Use, Alteration or Conversion of Structure. Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

A. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

B. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

C. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

D. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

E. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

F. No more than one accessory dwelling unit per lot is permitted.

19.404.7 Required Parking. Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking. (Ord. 1880 (part), 2000)

[19.405 Storage in front yard.](#)

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than ten (10) days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street. (Ord. 1880 (part), 2000)

[19.406 Clear vision areas.](#)

A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets or a street and a railroad according to the provisions of the clear vision ordinance. (Ord. 1880 (part), 2000)

[19.407 Maintenance of minimum ordinance requirements.](#)

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use. (Ord. 1880 (part), 2000)

[19.408 Dual use of required open space.](#)

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1D. (Ord. 1880 (part), 2000)

19.409 Buildings on the same lot.

A minimum distance of six (6) feet as measured between the closest points of the structures shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. In R-10, R-7, R-5, and R-3 zones, only one (1) building designed for dwelling purposes shall be permitted per lot. (Ord. 1907 (Attach. 2), 2002: Ord. 1880 (part), 2000)

19.410 Distance from property line.

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three (3) feet from the property line. (Ord. 1880 (part), 2000)

19.411 Projections from buildings.

Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to twenty-four (24) inches into a required side yard or thirty-six (36) inches into a required front or rear yard. (Ord. 1880 (part), 2000)

19.412 Lot size requirements, general exceptions.

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than three thousand (3000) square feet, or with no frontage on a public street. This section shall not apply in the downtown zones. (Ord. 1880 (part), 2000)

19.413 Yard requirements, general exceptions.

19.413.1 Exceptions. The following exceptions to the yard requirements are established for a lot in any one:

A. The required front yard need not exceed the average depth of the two (2) abutting front yards within one hundred (100) feet of the proposed structure.

B. The required front yard need not exceed the average depth of the abutting front yard within one

hundred (100) feet of the proposed structure and the required front yard depth.

C. (Repealed by Ord. 1893)

(Ord. 1893 (part), 2001: Ord. 1880 (part), 2000)

19.414 Building height limitations, general exceptions.

Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of this chapter, except as provided in an L-F zone. (Ord. 1880 (part), 2000)

19.415 Additional building height.

One additional story may be permitted in excess of the required maximum standard. An additional ten percent (10%) of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones. (Ord. 1880 (part), 2000)

19.416 Transition area.

19.416.1 Transition Measures. In zones where multifamily, commercial, or industrial projects are proposed that are within one hundred (100) feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.

A. Roadways separating projects;

B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the six- (6)-foot level to screen living rooms from direct view across open areas;

C. Gradual density changes. A new project may not have a density greater than twenty-five percent (25%) of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a

variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern. (Ord. 1880 (part), 2000)

19.417 Minimum vegetation.

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard. (Ord. 1880 (part), 2000)

19.418 Density and dedication of park land.

In exchange for the dedication of park land, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same. (Ord. 1880 (part), 2000)

19.419 Density and housing cost.

For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at twenty-five percent (25%) below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus ten percent (10%). The planned unit development density increase specified in Section 19.319 and this density increase are additive. (Ord. 1880 (part), 2000)

19.420 Temporary structure permits.

19.420.1 Requirements for Approval. Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed six (6) months where:

- A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.;
- B. The applicant has applied for a building permit for a permanent dwelling;
- C. The temporary structure will be owner-occupied;
- D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy;
- E. The use is consistent with the Milwaukie comprehensive plan; or
- F. There is no other reasonable alternative to use of a temporary structure.

19.420.2 Approval Conditions. In addition, the applicant must satisfy the following conditions for

approval:

- A. City approval of a sewage disposal system for the structure;
- B. Screening of the structure to minimize any adverse visual impact on surrounding property;
- C. Placement of manufactured skirting around the structure;
- D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.

19.420.3 Review Process. Applications for temporary structures shall be processed according to subsection 19.1011.1, Type I administrative review. Temporary permits that exceed the six- (6)-month time period allowed under subsection 19.420.1 must be reviewed by the planning commission under subsection 19.1011.3. (Ord. 1880 (part), 2000)

[19.421 Manufactured dwelling parks.](#)

19.421.1 Purpose. This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing six (6) to twelve (12) dwelling units per acre.

19.421.2 Application.

A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.

B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas, and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.

19.421.3 General Requirements. Manufactured dwelling parks shall be subject to review under subsection 19.1011.3 of the zoning ordinance, Minor Quasi-Judicial Review.

19.421.4 Development Requirements. All manufactured dwelling parks shall meet the following minimum requirements:

- A. The minimum size of a manufactured dwelling park shall be two (2) acres.
- B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after fifteen percent (15%) of the site has been deducted for access drives.
- C. A minimum setback of fifteen (15) feet will be observed between all manufactured dwellings and

the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of six (6) feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.

D. Each manufactured dwelling unit or accessory structure shall maintain a minimum ten- (10)-foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back ten (10) feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of fifteen (15) feet.

E. A minimum of fifteen percent (15%) of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to one hundred (100) square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.

F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of twenty-four (24) feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of three (3) feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of thirty (30) feet of paving.

G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500 of the zoning ordinance. If 24-foot-wide streets are constructed, an additional off-street parking space per each two (2) manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within one hundred (100) feet of the manufactured dwellings they serve.

H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.

I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below grade level and for a minimum distance of six (6) inches above finish grade, the materials shall be resistant to decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes,

Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy. (Ord. 1880 (part), 2000)

19.422 Manufactured home placement.

19.422.1 Purpose. This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.422.2 Applicability. Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown on the following table:

Table 2
MANUFACTURED HOME PLACEMENT BY ZONE

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.422.3 Definitions. For the purposes of this section, the following definition shall apply:

“Manufactured home” means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.422.4 Siting Standards. Manufactured homes placed on individual lots shall meet the following standards:

- A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than one thousand (1000) square feet.
- B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than twelve (12) inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.
- C. The unit shall have a roof with a pitch of at least three (3) inches in twelve (12) inches.
- D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.
- E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.
- F. The unit shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.
- G. The unit shall comply with the definition for manufactured home as identified in this section.
- H. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.422.5 Implementation of Siting Standards.

- A. For unit placement on an individual lot within all R-zones, the siting standards shall be administered as part of the building permit process for the unit placement.
- B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.420 is not subject to the siting standards of this section.

19.422.6 Occupancy of Units. All approval and siting standards of this section shall be complied

with before a manufactured home placed on an individual lot may be approved for occupancy.

19.422.7 Review Processes.

A. Siting standards of this section shall be reviewed as part of the building review procedures of subsection 19.1011.1.

B. Subdivision processes and procedures are those contained in the city subdivision ordinance. (Ord. 1880 (part), 2000)

19.423 Multifamily recycling areas.

19.423.1 Purpose. This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

19.423.2 Definition. For the purposes of this section, the following definition shall apply:

“Recycling collection area” means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

19.423.3 Applicability. All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

19.423.4 Recycling Collection Area Standards. Standards for recycling collection areas are as follows:

A. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.

B. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.

C. Recycling containers must be covered either by roof or weatherproof lids.

D. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.

E. The recycling collection area(s) must have a collection capacity of at least one hundred cubic feet in size for every ten dwelling units or portion thereof.

F. The recycling collection area must be easily accessible to collection service personnel between the hours of six a.m. and six p.m.

G. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.

H. City fire department approval will be required for all recycling collection areas.

I. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

19.423.5 Review of Recycling Collection Areas.

A. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of subsection 19.1011.3, Minor Quasi-Judicial Review.

B. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of subsection 19.1011.1, Type I Administrative Review. (Ord. 1880 (part), 2000)

19.424 Home occupations.

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the city's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

19.424.1 Home Occupation Use Standards. Home occupation uses are allowed by right, however they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property;
- B. Maintain the residential character of the building and premises;
- C. Not have the outward appearance of a business;
- D. Not detract from the residential character of the neighborhood; and
- E. Be owned and operated by an occupant of the dwelling.

19.424.2 Prohibitions and Use Restrictions.

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.424.3 Permitted Signage. Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed four square feet in area, shall not be illuminated, shall not exceed three feet in height and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the city without prior notice.

19.424.4 Enforcement. Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with subsection 19.424.1 of this section:

- A. Number of on-site employees who are not members of the family residing on the premises;
- B. Use of the home to distribute or receive goods;
- C. Use of the premises for parking of customer, client, or employee vehicles and the location and number of parking spaces;
- D. The use of public streets for parking or storage;
- E. The time of day that home occupation activities may take place;
- F. Equipment or material storage, including vehicles and trailers;
- G. Noise, light, fumes, exhaust, and similar impacts. (Ord. 1941 § 2 (Exh. 1), 2004)

[19.425 Design standards for single-family housing.](#)

- A. All new one- and two-family dwellings shall meet the following design standards:
 1. The main entrance of the dwelling shall be oriented to the street upon which the lot fronts or which provides vehicle access. The main entrance shall be considered to be oriented to the street if the front door faces the street or if the front door leads to a porch, patio, or sidewalk that is located in the front yard.
 2. The area of windows on all exterior wall elevation(s) facing the street shall be at least twelve percent of the area of those elevations. Roofs, including gable ends, shall not be included in wall area.
- B. All dwellings, except temporary dwellings approved in accordance with this chapter, shall include at least three of the following features on any building elevation that faces, or is visible to, the street (if on a corner lot, visible to the street where the dwelling takes access). Manufactured homes are subject to additional requirements of this chapter.
 1. Covered porch at least five feet deep;
 2. Entry area recessed at least two feet from the exterior wall to the door;
 3. Bay or bow window that projects at least one foot from exterior wall;
 4. Offset on the building face of at least sixteen inches from one exterior wall surface to the other;

5. Dormer;
6. Roof eaves with a minimum projection of twelve inches from the intersection of the roof and the exterior walls;
7. Roof line offsets of at least sixteen inches from the top surface of one roof to the top surface of the other;
8. Attached garage;
9. Cupola;
10. Tile or wood shingle roofs;
11. Horizontal lap siding;
12. Brick covering at least forty percent of the building elevation that is visible from the street. (Ord. 1907 (Attach. 2), 2002)

[19.426 Flag lot design and development standards.](#)

19.426.1 Applicability. Flag lots in all zones are subject to the development standards of this section.

19.426.2 Development Standards.

A. Lot Area Calculation. The areas contained within the accessway or pole portion of the lot shall not be counted towards meeting the minimum lot area requirement.

B. Yard Setbacks for Flag Lots.

1. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is thirty feet.
2. Side Yard. The minimum side yard for principal and accessory structures in flag lots is ten feet.

19.426.3 Variances Prohibited. Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

19.426.4 Frontage, Accessway, and Driveway Design.

A. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is twenty-five feet.

B. Abutting flag lots shall have a combined frontage and accessway of thirty-five feet. For abutting accessways of two or more flag lots, the accessway of any individual lot shall not be less than fifteen feet.

C. Driveway Design and Emergency Vehicle Access.

1. Driveways shall be designed and constructed in accordance with standards adopted by the engineering director.
2. Driveways serving single flag lots shall have a minimum paved width of twelve feet.

3. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this section.
4. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area may be required.
5. Driveways serving two flag lots shall be consolidated and have a minimum shared driveway width of sixteen feet.
6. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable. Driveway location and design is subject to clear vision and driveway spacing provisions of Chapter 19.1400, Transportation Planning, Design Standards, and Procedures.
7. Design standards for shared driveways serving more than three lots shall be specified by the engineering director after consultation with the fire marshal.
8. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

19.426.5 Protection of Adjoining Properties.

A. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties.

B. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the city attorney is provided. Screening and landscaping shall be installed within six (6) months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

C. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along the flag lot driveway abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as follows.

1. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within three (3) years of planting is allowed.
2. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.
3. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

D. Tree Mitigation. All trees six (6) inches or greater in diameter, as measured at the lowest limb or

four (4) feet above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of two (2) inches caliper and evergreen trees shall be a minimum of five (5) feet tall.

19.426.6 Landscape Plan Required. A landscaping plan shall be submitted to the planning director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

- A. A list of existing vegetation by type, including number, size, and species of trees;
- B. Details for protections of existing trees;
- C. List of existing natural features;
- D. Location and space of existing and proposed plant materials;
- E. List of plant material types by botanical and common names;
- F. Notation of trees to be removed;
- G. Size and quantity of plant materials; and
- H. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway. (Ord. 1907 (Attach. 2), 2002)

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Chapter 19.500 OFF-STREET PARKING AND LOADING

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The purpose of this section is to provide adequate off-street parking and loading, to avoid congestion on the streets, to avoid unnecessary conflicts between vehicles and pedestrians, to encourage the use of bicycles and mass transit, and to facilitate access from streets to off-street parking lots and from structures to off-street parking and loading spaces. (Ord. 1880 (part), 2000)

19.502 Applicability of provisions.

A. The standards and procedures of Chapter 19.500 shall apply to all development, remodeling and changes of use that increase parking and loading demand.

B. The standards and procedures of this section shall also apply to uses with nonconforming parking and loading facilities, in an attempt to bring them into conformance with current standards when remodeling or change in use occurs. (Ord. 1880 (part), 2000)

19.503 Off-street parking standards.**19.503.1 General Provisions.**

A. Off-street parking shall be required in all districts except for the downtown storefront zone and the portion of the downtown office zone located to the north of Washington Street and east of McLoughlin Boulevard.

B. Off-street parking shall be provided at the time the structure is erected, prior to the issuance of a certificate of occupancy, at the time any use of a structure or land is enlarged, or when there is an increase in density or intensity.

C. Off-street parking shall be provided on the site unless joint use or shared parking is approved and is located within three hundred feet of the principal structure or use.

D. It shall be the obligation of the property owner to comply with the regulations of Chapter 19.500 and to maintain the parking area.

E. Parking areas shall be available for the parking of operable vehicles of residents, customers and employees and shall not be used for the storage of vehicles or materials.

19.503.2 Shared Parking. Shared parking shall be permitted for two or more uses when there is no conflict in operating hours. Parking spaces shall be no further than three hundred feet from the principal structure(s) or use(s). Legal documentation shall be recorded with the county, and provided to the city, between separate developers sharing parking prior to obtaining a building permit.

19.503.3 Minimum Number of Required Parking Spaces and Maximum Allowable Parking.

A. Parking shall be provided for all uses in accordance with specifications of Table 19.503.9. Where a use is not named in Table 19.503.9, determination of applicable parking standards shall be made in accordance with subsection 19.503.5.

B. Except as provided herein, parking provided shall not be less than “minimum parking required” nor shall parking provided exceed “maximum allowable parking” as shown in Table 19.503.9.

19.503.4 Special Exemption from Maximum Allowable Parking Standards. The following uses shall be exempt from maximum allowable parking standards of Table 19.503.9. This exemption does not limit any provision or authority to restrict the size, location, or design of such uses. On sites where the following parking is provided, it shall not be included in the parking count used for determining maximum allowable parking:

- A. Structured parking;
- B. Valet lots;
- C. Pay lots;
- D. Employee carpool parking, when such areas are dedicated by way of on-site reservation or dedication;
- E. Fleet parking;
- F. Automobile sales lots;
- G. Truck loading areas.

19.503.5 Determination of Parking Zone Classification.

A. Zone A.

1. All areas zoned DS, DC, DO, DR, DOS, and mixed use overlay shall be classified zone A; and
2. All properties located within one-quarter mile walking distance of a transit bus stop that provides twenty-minute peak hour service shall be classified zone A. In determining walking distance, the shortest course measured along sidewalks, improved pedestrian ways, or streets, where sidewalks or improved pedestrian ways are not present, shall be used. Walking distance shall be measured from the nearest point of the subject lot located along the nearest street frontage that allows for the shortest walking distance. The transit provider shall be the official source for transit stop location and peak service availability.

B. Zone B.

1. All properties not located within zone A shall be classified zone B.

19.503.6 Determination of Required Parking for Unlisted Uses. The planning director shall determine the minimum required parking spaces and maximum allowable parking spaces for all uses not listed in Table 19.503.9; unless an application is under review by the planning commission, in which case the commission shall make the determination. In all determinations for unlisted uses, the applicant shall be required to submit studies or technical information about the use, parking demand, traffic (vehicle trip) generation, and otherwise as deemed necessary to make a determination. The city may consider testimony and publications of individuals, agencies, or institutions experienced in parking and traffic engineering in its determination of parking standards.

19.503.7 Reduction of Required Parking. Notwithstanding provisions for modification of parking requirements found in subsection 19.503.8, the following reductions of minimum required parking may be taken by right. Reductions provided below may not be taken jointly. No reduction taken pursuant to this section shall discount required minimum parking used in any request for modification of required parking. In determining walking distance, the shortest course measured along sidewalks, improved pedestrian ways, or streets, where sidewalks or improved pedestrian ways are not present, shall be used. Walking distance shall be measured from the point on the subject lot located nearest to the transit stop along the shortest course.

A. Parking for commercial and industrial uses may be reduced by ten percent providing the development is within five hundred feet walking distance of a transit stop.

B. Parking for multifamily uses may be reduced by twenty percent providing the development is located within five hundred feet walking distance of a transit stop.

C. Commercial and industrial developments may reduce the required number of parking spaces by ten percent if at least one carpool/vanpool space is located near the entrance of the structure.

19.503.8 Modification of Minimum and Maximum Parking.

A. Minimum parking required and maximum parking allowed may be modified by the planning director; unless there is an application under review by the planning commission, in which case the commission shall consider the request for modification. Any request must demonstrate the modification is acceptable through parking and traffic analyses prepared by a qualified professional using methods generally accepted in the field. The procedure for planning director review shall be in accordance with subsection 19.1011.1, Type I Administrative Review. This provision shall not be used in cases of zoning hardship. Any proposed modification of parking related to hardship shall be reviewed in accordance with variance procedures in Chapter 19.700.

B. For uses requiring a minimum of ten or more parking spaces, inclusive of all uses in the case of mixed used, required parking may be reduced by up to fifteen percent of the minimum required for sites located in parking zone A, upon a demonstration the modification is warranted, pursuant to subsection

19.503.8A, and meets the following criteria.

1. Will not result in undue site congestion;
2. Will not result in traffic hazards on the site or adjoining streets; and
3. Will not result in an undue reduction in the availability of on-street parking or parking located in facilities owned and/or operated by the city.

C. A reduction of up to twenty-five percent of total required parking may be granted for new development, redevelopment, and substantial improvements subject to subsections A and B above in such cases where:

1. The project is utilizing shared parking in accordance with subsection 19.503.2; or
2. For mixed use projects, the site is located within parking zone A and no less than one-half of the total gross floor area is dedicated to residential uses.

For the purposes of this section, “substantial improvement” means any construction, renovation, or modification where the value of proposed site and building improvements exceeds thirty percent of the value of the land and buildings thereon. Any request for reduction of required parking pursuant to this subsection C shall be subject to Chapter 19.600, Conditional Uses.

D. Mitigation of adverse impacts such as those named above in subsection B may be required as a condition necessary to make a reduction of required parking acceptable.

E. Maximum parking allowed may be increased up to fifteen percent of the applicable standard, subject to subsection A above, and further subject to compliance with all zoning standards and management of related storm water runoff.

19.503.9 Number of Required Off-Street Parking Spaces.

Table 19.503.9			
MINIMUM TO MAXIMUM OFF-STREET PARKING REQUIREMENTS			
Use	Minimum Required	Zone A Maximum Allowed	Zone B Maximum Allowed
A. Residential Uses			
1. 1- and 2-unit attached home; manufactured home; single-family detached	2 spaces per dwelling unit, one of which must be covered.	Not applicable.	Not applicable.

2. Flag lots	2 spaces per dwelling unit, one of which must be covered, plus 1 additional parking space per dwelling unit, which shall not be located within any access strip or required paved turnaround area.	Not applicable.	Not applicable.
3. Studio or 1-bedroom unit 600 sf or less (see Chapter 19.100)	1 space per dwelling unit; enclosure/cover not required.	None.	None.
4. Attached dwellings containing 3 or more dwelling units	1.25 spaces per dwelling unit, one of which shall be covered. 1 space (10 feet by 25 feet) for every 12 dwelling units for recreational vehicles, boats, etc.	2 spaces per dwelling unit, one of which shall be covered. 1 space (10 feet by 25 feet) for every 12 dwelling units for recreational vehicles, boats, etc.	Same as Zone A
5. Mobile home park	2 spaces per dwelling unit, one of which shall be covered. 1 space (10 feet by 25 feet) for every 10 dwelling units for recreational vehicles, boats, etc.	Same as minimum.	Same as Zone A
6. Residential employees, staff, caregivers, and caretakers	1 space per each full-time equivalent (FTE) employee or fraction thereof over .5 FTE, in addition to the normal residential space requirements.	Same as minimum.	Same as Zone A

B. Residential Support Uses			
1. Church	1 space per 5 seats, or 1 space per 12 lineal feet of bench.	1 space per 3 seats, or 1 space per 8 lineal feet of bench.	Same as Zone A
2. College, university, institute of higher learning	1 space per 3 students.	1 space per 2 students.	Same as Zone A

	Minimum Required	Zone A Maximum Allowed	Zone B Maximum Allowed
3. Daycare center	1 space per employee on the largest shift, plus 1 per facility vehicle, plus 1 space per 8 pupils.	1 space per employee on the largest shift, plus 1 space per facility vehicle, plus 1 space per 5 pupils.	Same as Zone A
4. School—elementary or junior high	1.75 spaces per classroom.	1.5 spaces per classroom.	Same as Zone A
5. School—senior high	.33 spaces per student, plus 1 space per staff.	.25 space per student, plus 1 space per staff.	Same as Zone A

C. Lodging Places

1. Motel, hotel	.9 space per lodging unit.	1.1 spaces per lodging unit.	Same as Zone A
2. Boarding house	1 space per guest room.	1.25 spaces per guest room.	Same as Zone A
3. Bed and breakfast establishments	1 space per guest room, plus 1.5 spaces per permanent residents.	1 space per guest room, plus 2 spaces per permanent residents.	Same as Zone A

D. Places of Public Assembly

1. Auditorium or meeting room (other than church or school)	1 space per 4 seats, or 1 space per 60 square feet of floor area.	1 space per 3 seats, or 1 space per 45 square feet of floor area.	Same as Zone A
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2. Club, lodge, or association	1 space per 4 persons allowed within the maximum occupancy load as established by local, state, fire, building, or health codes.	1 space per 3 persons allowed within the maximum occupancy load as established by local, state, fire, building, or health codes.	Same as Zone A
3. Library, museum, art gallery	1 space per 1,000 square feet of gross floor area.	1.2 spaces per 1,000 square feet of gross floor area.	Same as Zone A

E. Commercial Uses—Recreational

1. Amusement park	1 space for each 1,000 square feet of gross floor area.	Same as minimum.	Same as Zone A
2. Billiard hall	1 space per table, plus 1 space per employee of the largest shift.	Same as minimum.	Same as Zone A
3. Bowling alley	2 spaces for each alley, plus 1 space per employee of the largest shift.	4 spaces for each alley, plus 1 space per employee of the largest shift.	Same as Zone A
4. Dance hall, skating rink, or gymnasium	1 space per 100 square feet of gross floor area.	1 space per 50 square feet of gross floor area.	Same as Zone A
5. Golf driving range	1 space per each driving tee.	1.5 spaces per each driving tee.	Same as Zone A

	Minimum Required	Zone A Maximum Allowed	Zone B Maximum Allowed
6. Indoor arena or theater	1 space per 4 seats, or 1 space per 5 occupants as calculated under the Uniform Building Code.	1 space per 3 seats.	Same as Zone A
7. Miniature golf	1.25 spaces per hole.	1.5 spaces per hole.	Same as Zone A

8. Race track or stadium	1 space per 4 seats, or 1 space for 8 feet of bench length.	1 space per 3.5 seats, or 1 space for 6 feet of bench length.	Same as Zone A
9. Indoor racquet courts	2 spaces per court, plus 1 space per employee of largest shift.	3 spaces per court, plus 1 space per employee of largest shift.	Same as Zone A
F. Commercial Uses—Retail Goods			
1. Eating and drinking establishments			
a. Sit-down	10 spaces per 1,000 square feet of gross floor area.	15 spaces per 1,000 square feet of gross floor area.	Same as Zone A
b. Fast food	9.9 spaces per 1,000 square feet of gross floor area, plus minimum of 5 off-street waiting spaces per drive-in lane.	12.4 spaces per 1,000 square feet of gross floor area, plus minimum of 5 off-street waiting spaces per drive-in lane.	14.9 spaces per 1,000 square feet of gross floor area, plus minimum of 5 off-street waiting spaces per drive-in lane.
2. Convenience store	4 spaces 1,000 square feet of gross floor area.	5 spaces per 1,000 square feet of gross floor area.	Same as Zone A
3. Grocery store	1 space per 245 square feet of gross floor area.	1 space per 200 square feet of gross floor area.	1 space per 165 square feet of gross floor area.
4. Apparel and department stores	3 spaces per 1,000 square feet of gross floor area.	4 spaces per 1,000 square feet of gross floor area.	Same as Zone A
5. Furniture and home furnishings	1 space per 1,000 square feet of gross floor area.	1.5 spaces per 1,000 square feet of gross floor area.	Same as Zone A
6. Gas stations			
a. Gas-only	1 space per 4 pumps.	1.25 spaces per 4 pumps.	Same as Zone A
b. Full-service	1 space per 4 pumps, plus 2 spaces per service bay, plus 1 space per each 1.5 employees of the largest shift.	1.25 spaces per 4 pumps, plus 2 spaces per service bay, plus 1 space per each 1.5 employees of the largest shift.	Same as Zone A

7. Auto, boat, or trailer sales	1 space per 1,000 square feet of gross showroom floor area, plus 1 space per 2 employees of the largest shift.	2 spaces per 1,000 square feet of gross showroom floor area, plus 1 space per 2 employees of the largest shift.	Same as Zone A
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G. Commercial Uses—Services

1. Banking			
a. Automatic teller	2 spaces per machine.	Same as minimum.	Same as Zone A

	Minimum Required	Zone A Maximum Allowed	Zone B Maximum Allowed
b. Bank (walk-in only)	3 spaces per 1,000 square feet of gross floor area.	4 spaces per 1,000 square feet of gross floor area.	Same as Zone A
c. Bank (with drive-in windows)	3 spaces per 1,000 square feet of gross floor area, plus sufficient stacking room for 4 cars and a bypass lane.	3.5 spaces per 1,000 square feet of gross floor area, plus sufficient stacking room for 4 cars and a bypass lane.	Same as Zone A
2. Barber shop or beauty parlor	1 space per 125 square feet of floor area.	1 space per 100 square feet of floor area.	Same as Zone A
3. Health practitioner's office	4 spaces per 1,000 square feet of floor area.	5 spaces per 1,000 square feet of floor area.	Same as Zone A
4. Animal hospital/veterinary clinic	4 spaces per 1,000 square feet of floor area.	5 spaces per 1,000 square feet of floor area.	Same as Zone A
5. Hospital	1 space per bed.	2 spaces per bed.	Not applicable.
6. Nursing, convalescent, and extended-care facilities	1 space per 4 beds.	1 space per 3 beds.	Same as Zone A
7. Professional services	1 space per 370 square feet of gross leasable area.	1 space per 295 square feet of floor area.	1 space per 245 square feet of floor area.

8. Personal services	1 space per 125 square feet of floor area.	1 space per 100 square feet of floor area.	Same as Zone A
9. Repair shops (items other than motorized vehicles)	1 space per 350 feet of gross floor area.	1 space per 300 feet of gross floor area.	Same as Zone A
10. Car wash			
a. Self-serve	2 spaces, plus 1 space per wash bay (clear of the right-of-way)	2 spaces, plus 2 spaces per wash bay (clear of the right-of-way)	Same as Zone A
b. Full-serve	1 space per 1,000 square feet of gross floor area.	Same as minimum.	Same as Zone A
11. Dry cleaners	1 space per 350 square feet of gross floor area.	1 space per 300 square feet of gross floor area.	Same as Zone A
12. Mortuary/funeral home	1 space per each 5 chapel or parlor seats, plus 1 space per 2 employees of the largest shift, plus 1 space reserved for hearse or company vehicle.	1 space per each 4 chapel or parlor seats, plus 1 space per 2 employees of the largest shift, plus 1 space reserved for hearse or company vehicle.	Same as Zone A
13. Automotive, truck, and trailer rental	1 space per 400 square feet of gross floor area.	1 space per 350 square feet of gross floor area.	Same as Zone A
H. Industrial Uses			
1. Manufacturing	1 space per 1,000 square feet of gross floor area.	1.25 spaces per 1,000 square feet of gross floor area.	Same as Zone A

	Minimum Required	Zone A Maximum Allowed	Zone B Maximum Allowed
2. Storage, warehouse, wholesale establishment less than 150,000 square feet	1 space per 1,500 square feet of gross floor area.	1 space per 1,000 square feet of gross floor area.	Same as Zone A

3. Storage, warehouse, wholesale establishment greater than or equal to 150,000 square feet	1 space per 3,000 square feet of gross floor area.	1 space per 2,500 square feet of gross floor area.	1 space per 2,000 square feet of gross floor area.
4. Miniwarehouse; self-service storage	1 space per 12 storage units, plus 1 space per employee of the largest shift.	1 space per 10 storage units, plus 1 space per employee of the largest shift.	Same as Zone A

19.503.10 Off-Street Parking Space Standards.

A. A minimum of fifty percent of spaces shall be regular-sized spaces and a maximum of fifty percent can be compact spaces. Handicapped spaces shall be according to federal and state requirements.

B. The minimum dimensions for required off-street parking spaces shall be as follows:

Table 19.503.10						
MINIMUM PARKING SPACE AND AISLE DIMENSIONS^{1,2}						
Angle (A)	Type	Width (B)	Curb Length (C)	1-Way Aisle Width (D)	2-Way Aisle Width (D)	Stall Depth (E)
0° (Parallel)	Regular	9 ft.	22 ft. 6 in.	12 ft.	24 ft.	8 ft.
	Compact	7 ft.	19 ft. 6 in.	12 ft.	24 ft.	7 ft. 6 in.
30°	Regular	9 ft.	18 ft.	12 ft.	24 ft.	17 ft.
	Compact	7 ft. 6 in.	15 ft.	12 ft.	24 ft.	14 ft.
45°	Regular	9 ft.	12 ft. 6 in.	12 ft.	24 ft.	19 ft.
	Compact	7 ft. 6 in.	10 ft. 6 in.	12 ft.	24 ft.	16 ft.
60°	Regular	9 ft.	10 ft. 6 in.	18 ft.	24 ft.	20 ft.

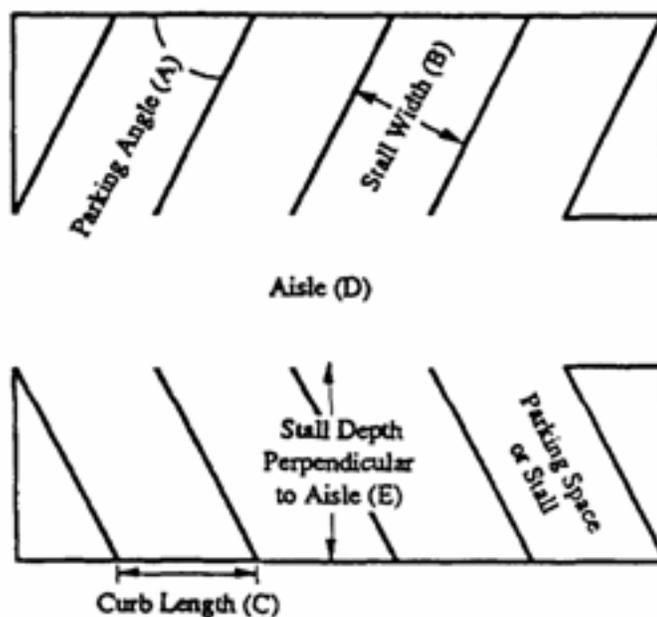
	Compact	7 ft. 6 in.	8 ft. 6 in.	15 ft.	24 ft.	16 ft. 6 in.
90°	Regular	9 ft.	9 ft.	24 ft.	24 ft.	19 ft.
	Compact	7 ft. 6 in.	7 ft. 6 in.	22 ft.	24 ft.	15 ft.

Notes:

¹ See Figure 19.503.10

² See state and federal (Americans with Disabilities Act) requirements for the number and dimensions of required disabled parking spaces.

Figure 19.503.10
PARKING DIMENSION FACTORS



19.503.11 Paving and Striping. Paving and striping shall be required for all maneuvering and standing areas. Off-street parking areas shall have a durable and dust-free hard surface, shall be maintained for all-weather use, and shall be striped to show delineation of parking spaces and directional markings for driveways and accessways.

19.503.12 Curb Cuts. Curb cuts to parking areas shall be the minimum number necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Curb cuts shall comply with the access spacing standards of Chapter 19.1400.

19.503.13 Aisles. Aisles shall be required in parking areas greater than three spaces. Parking spaces

shall be provided with adequate aisles or turnaround areas so that all vehicles may enter the street in a forward manner.

19.503.14 Connections. Parking areas shall be designed to connect with parking areas on adjacent sites to eliminate the use of the street for cross movements.

19.503.15 Lighting. Lighting of a parking area shall be required and shall be designed to enhance safe access for vehicles and pedestrians on the site. Parking area lighting shall be situated to avoid glare and be deflected so as not to shine on adjacent property.

19.503.16 Drainage. All areas used for circulation and parking shall meet city standards for surface water runoff.

19.503.17 Pedestrian Access. Pedestrian access through parking areas shall be attractive, separated from vehicular circulation and parking, lighted, and provide direct access. Walkways shall be required in parking areas over twenty spaces and shall be buffered by landscaping or a curb.

19.503.18 Park-and-Ride Facilities. Park-and-ride facilities may be encouraged or required as part of development review for uses along transit routes. These uses have days and hours not in conflict with weekday use (e.g., churches, fraternal organizations) and may be encouraged or required to allow a portion of their parking area to be used for a park-and-ride lot.

19.503.19 Landscaping. Parking area landscaping shall be required in all districts and for all uses other than single-family and duplex residences. Landscaping shall be based on the following standards.

A. Perimeter landscaping of parking areas may be considered as part of site landscaping already required. Perimeter landscaping shall meet the following standards which are illustrated in Figures 19.503.19(A)(1) and 19.503.19(A)(2) at the end of this chapter.

1. A minimum of eight feet of landscaped buffer area between off-street parking area and right-of-way shall be provided, as measured from inside of curb to inside of curb or edge of right-of-way.

2. A minimum of six feet of landscaped buffer area shall be provided, as measured from inside of curb to inside of curb, between off-street parking area and lot line when not next to right-of-way. This standard is not applicable in the downtown zones.

3. A minimum of six feet of landscaped buffer area shall be provided, as measured from inside curb to inside curb, between off-street parking area and other uses on the site; e.g., buildings, open space, storm water system. Landscaped islands may be used as an alternative to a landscaped buffer area between buildings.

4. A minimum of eight feet of landscaped buffer area shall be provided, as measured from the inside of curb to inside of curb, on both sides of driveway into off-street parking area.

5. One landscaped island shall be required per every eight parking spaces. The islands shall be a minimum of six feet in width, as measured from the inside of curb to inside of curb, and shall include one

tree per island. If two islands are located contiguously, they may be combined and counted as two islands with two trees planted.

6. Landscaping requirements for perimeter buffer areas shall be as follows: one tree to be planted every forty lineal feet of landscaped buffer area. The remainder of the buffer area shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.

7. Where off-street parking areas abut a property boundary, continuous screening of plant materials shall be provided along the perimeter buffer area. Provision of screening may be phased in multiphase projects and is optional along access drives, where not contiguous to off-street parking areas or buildings.

B. Interior landscaping of parking areas shall be required and shall meet the following standards which are illustrated in Figures 19.503.19(B)(1), 19.503.19(B)(2), and 19.503.19(B)(3).

1. One landscaped island shall be required per every eight parking spaces. The interior islands shall be a minimum of six feet in width, as measured from the inside of curb to inside of curb, and shall include one tree per island. If two interior islands are located contiguously, they may be combined and counted as two islands with two trees planted.

2. Divider medians of a minimum of six feet in width shall be provided, as measured from inside of curb to inside of curb. This may substitute for interior islands, provided that one tree is planted every forty feet and that the remainder of the buffer area shall be landscaped as identified in subsection (A)(6) above.

3. A row of parking spaces shall be terminated on each end by a terminal island, of a minimum six feet in width from inside of curb to inside of curb. This shall be provided that one tree is planted every forty feet and the remainder of the buffer area shall be landscaped as identified in subsection (A)(6) above.

C. Parking bumpers or wheel stops, of a minimum of four inches in height, shall be provided at parking spaces to prevent vehicles from encroaching on the street right-of-way, adjacent landscaped areas, or pedestrian walkways.

D. Preservation of existing trees is encouraged in the off-street parking area and may be credited toward the total number of trees required, based on staffs review.

E. Installation of parking area landscaping shall be required before a certificate of occupancy is issued, unless a performance bond is posted with the city. Then landscaping shall be installed within six months thereafter or else the bond will be foreclosed and plant materials installed by the city.

F. Parking area landscaping shall be maintained in good and healthy condition by the property owner, owner's agent, or the holder of the certificate of occupancy, as determined by the city.

G. An applicant may propose an alternative landscaping plan as part of undergoing an alternative parking plan, as required in subsection 19.503.6.

H. A landscaping plan shall be required. It shall be drawn to scale and shall accompany development permit applications for all developments, excluding single-family and two-family dwelling structures. The plan shall show the information required for the parking plan in subsection 19.503.20, and the following additional information:

1. A list of existing vegetation by type, including number, size, and species of trees;
2. A proposal to protect existing trees;
3. A list of existing natural features;
4. The location and space of existing and proposed plant materials;
5. A list of plant material types by botanical and common names;
6. Notation of trees to be removed;
7. Size and quantity of plant materials;
8. Irrigation plan; and
9. Method for maintenance of landscaping.

Figure 19.503.19(A)(1)

PERIMETER BUFFER ADJACENT TO ROAD RIGHT-OF-WAY

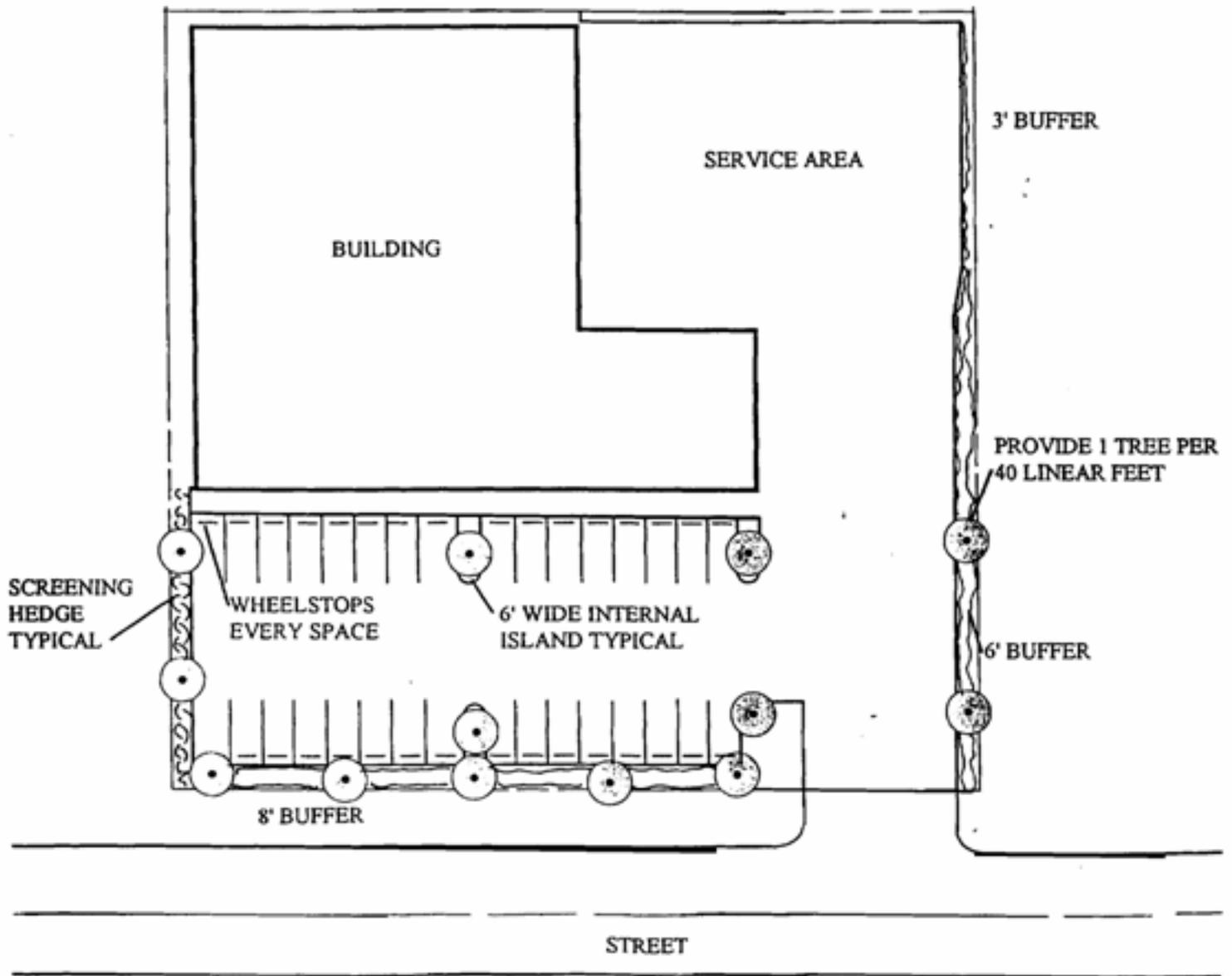


Figure 19.503.19(A)(2)

PERIMETER BUFFER ADJACENT TO PARKING AREA DRIVEWAY

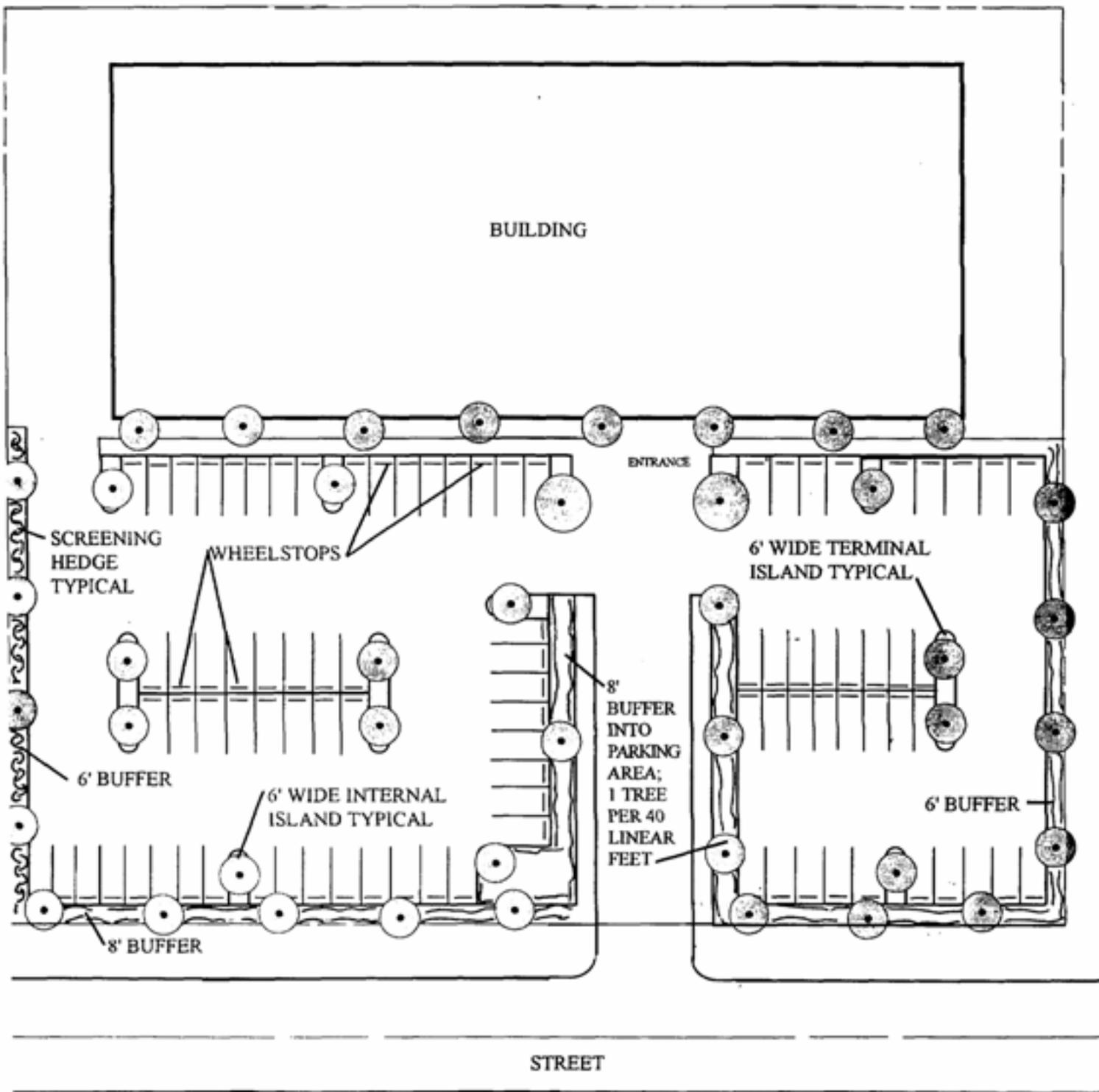


Figure 19.503.19(B)(1)
INTERNAL ISLANDS

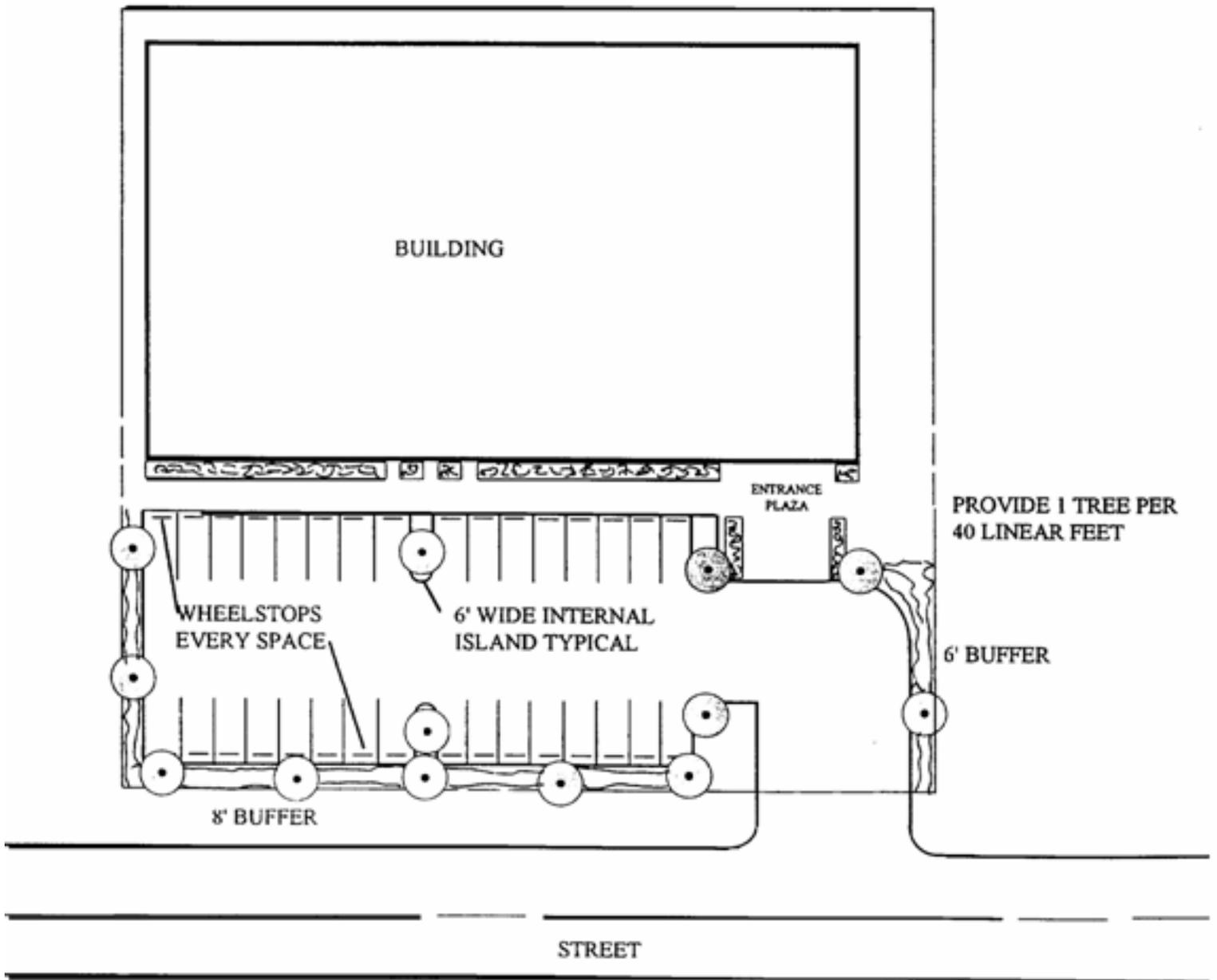


Figure 19.503.19(B)(2)
DIVIDER MEDIANS

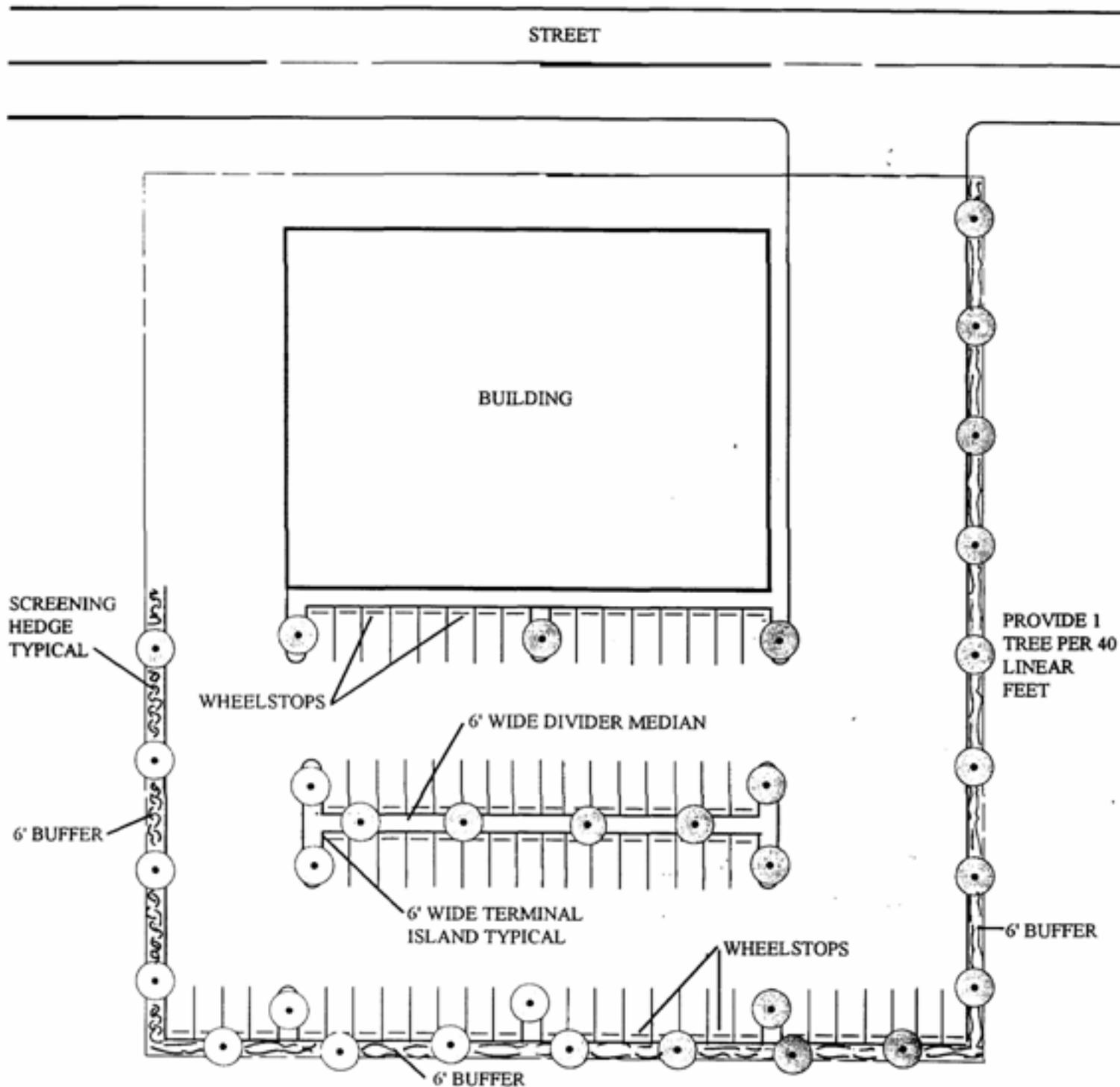
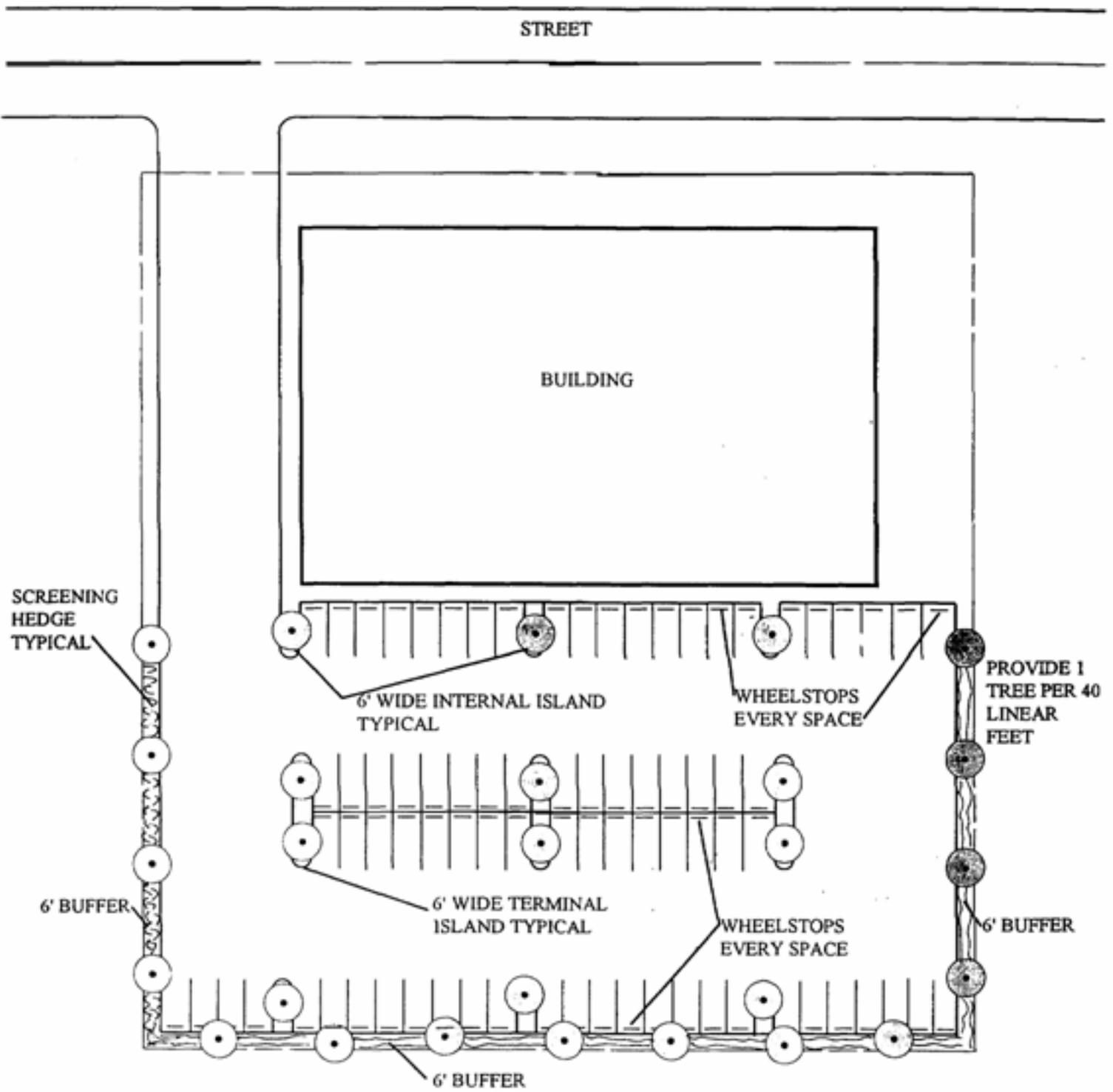


Figure 19.503.19(B)(3)
TERMINAL ISLANDS



19.503.20 Parking Plan. A parking plan shall be required. It shall be drawn to scale and shall accompany development permit applications for all developments, excluding single-family and two-dwelling structures. The plan shall show that all elements related to Chapter 19.500 are met, and shall include but is not limited to:

- A. Delineation of individual spaces;

- B. Circulation area necessary to serve spaces;
- C. Access to streets, alleys, and properties to be served;
- D. Curb cuts;
- E. Type of landscaping, fencing, or other materials;
- F. Abutting land uses;
- G. Grading, drainage, surfacing, and subgrading details;
- H. Location of lighting fixtures;
- I. Delineation of all structures and obstacles to on-site circulation; and
- J. Specification of signs and wheel stops.

19.503.21 Off-Street Vehicle Parking in Residential Zones. This section is intended to preserve residential neighborhood character by providing for off-street parking standards in residential zones.

A. Off-street parking for vehicles in residential zones shall be located on the same lot as the dwelling. Any additional required parking, such as for multifamily dwellings, may be located on a separate parcel, not greater than three hundred feet from the space to the building entrance, to be measured as the most direct pedestrian route.

B. The required off-street paved parking spaces in residential zones shall not be located in the side yard setbacks.

C. The uncovered required parking for one- and two-family dwellings in residential zones shall be permitted in the front yard setback.

D. Off-street residential parking areas and driveways shall be paved with a minimum driveway width of nine feet and parking space dimension of nine by twenty feet.

E. Commercial vehicles over one and one-half ton shall not be permitted to be parked or stored in residential zoning districts.

19.503.22 Recreational Vehicles and Pleasure Crafts. This section is intended to preserve residential neighborhood character by minimizing the impacts of parking and storage activities in residential zones. Recreational vehicles and pleasure crafts may be parked and stored on private residential property subject to the following conditions:

A. The vehicle located in the yard of a residential lot shall be kept in a clean and neat appearance and in usable condition at all times.

B. On lots less than one acre, only one recreational vehicle or private pleasure craft which is not located in an enclosed structure such as a garage, shall be allowed per residential lot. Canoes and other crafts less than twelve feet in length shall be exempt from this requirement.

C. No vehicle or pleasure craft shall be lived in, have housekeeping maintained, or have hook-up to

utilities while parked or stored on, or otherwise attached or moored to, a residential lot.

D. Vehicles that require state licensing shall have a current vehicle registration plate at all times.

E. A recreational vehicle or pleasure craft may be parked anywhere on a residential lot for up to twenty-four hours for the purposes of loading or unloading the vehicle.

F. A recreational vehicle or pleasure craft is encouraged to be parked or stored in the side or rear area of a residential lot provided it is located at least three feet from any lot line. It may be parked or stored on a gravel surface. Recreational vehicles or pleasure crafts greater than ten feet in height shall be set back seven and one-half feet from a side or rear lot line.

G. No recreational vehicles or private pleasure crafts shall be parked or stored in the public right-of-ways. (Ord. 1893 (part), 2001: Ord. 1880 (part), 2000)

19.504 Off-street loading standards.

19.504.1 General Provisions.

A. Off-street loading shall be required for commercial, industrial, public, and semipublic uses, as appropriate, for the receipt or distribution of merchandise by vehicles. Such uses shall have one or more spaces for standing, loading, and unloading of vehicles. Off-street loading is not required in the downtown storefront and downtown office zones.

B. Loading areas shall be provided on the site; shall be separated from parking areas; and, in cases where two separate uses exist on one parcel of land, the total required off-street loading shall be the sum of the requirements for each use separately.

C. It shall be the obligation of the property owner to comply with the regulations of this section and to maintain the loading area(s).

19.504.2 Number of Loading Spaces Required. The minimum number of loading spaces required for commercial, industrial, public, and semipublic uses shall be as follows:

Building Size	Required Loading Spaces
Under 5,000 square feet	0
From 5,000 to under 25,000 square feet	1
From 25,000 to under 60,000 square feet	2

19.504.3 Loading Space Standards. The minimum size dimensions for an off-street loading space shall be: width of twelve feet, clearance of sixteen feet, and length for local delivery of thirty feet, or sixty feet for semitrailer trucks.

19.504.4 Site Standards.

A. Off-street loading areas shall observe the minimum front and side yard setbacks for structures.

B. Off-street loading areas shall be located where not a hindrance to travel lanes, walkways, public or private streets, or adjacent properties.

19.504.5 Paving. Off-street loading areas shall be paved and have a durable hard surface.

19.504.6 Lighting. Lighting of loading areas shall be required and shall be designed to be situated so as to avoid glare and be deflected so as not to shine on adjacent property where dwellings exist.

19.504.7 Storage Prohibited. The accumulation of goods in loading areas shall be prohibited when it renders the space useless for loading and unloading of goods. (Ord. 1880 (part), 2000)

[19.505 Bicycle parking.](#)

19.505.1 Applicability. Bicycle parking shall be provided for all new commercial, business industrial (BI), community service (CSO), and multifamily development, except for temporary and seasonal uses (e.g., fireworks and Christmas tree stands) and storage units. Bicycle parking shall be provided in the downtown zones and at transit centers.

19.505.2 Number of Spaces. The number of bicycle parking spaces shall be at least ten percent (10%) of the required automobile parking for the use. In no case shall less than two (2) spaces be provided. The number of bicycle parking spaces at transit centers shall be provided at the ratio of one space per one hundred (100) daily boardings.

19.505.3 Space Standards and Racks. The dimension of each bicycle parking space shall be a minimum of two and one-half (2 1/2) by six (6) feet. A 5-foot-wide access aisle must be provided. If spaces are covered, seven (7) feet of overhead clearance must be provided. Bicycle racks must be securely anchored and designed to allow the frame and one wheel to be locked to a rack using a high security, U-shaped, shackle lock.

19.505.4 Location.

A. Bicycle parking facilities shall be:

1. Located within fifty (50) feet of the main building entrance;
2. Closer to the entrance than the nearest automobile parking space;

3. Designed to provide direct access to a public right-of-way;
4. Dispersed for multiple entrances;
5. In a location that is visible to building occupants or from the main parking lot;
6. Designed not to impede pedestrians along sidewalks or public rights-of-way; and
7. Separated from vehicle parking areas by curbing or other similar physical barriers.

B. The public right-of-way may be utilized for bicycle parking when parking cannot be reasonably accommodated on the site and the location is convenient to the building's front entrance. If a public sidewalk is used for parking, a minimum of four (4) feet of clear, unobstructed sidewalk must be maintained.

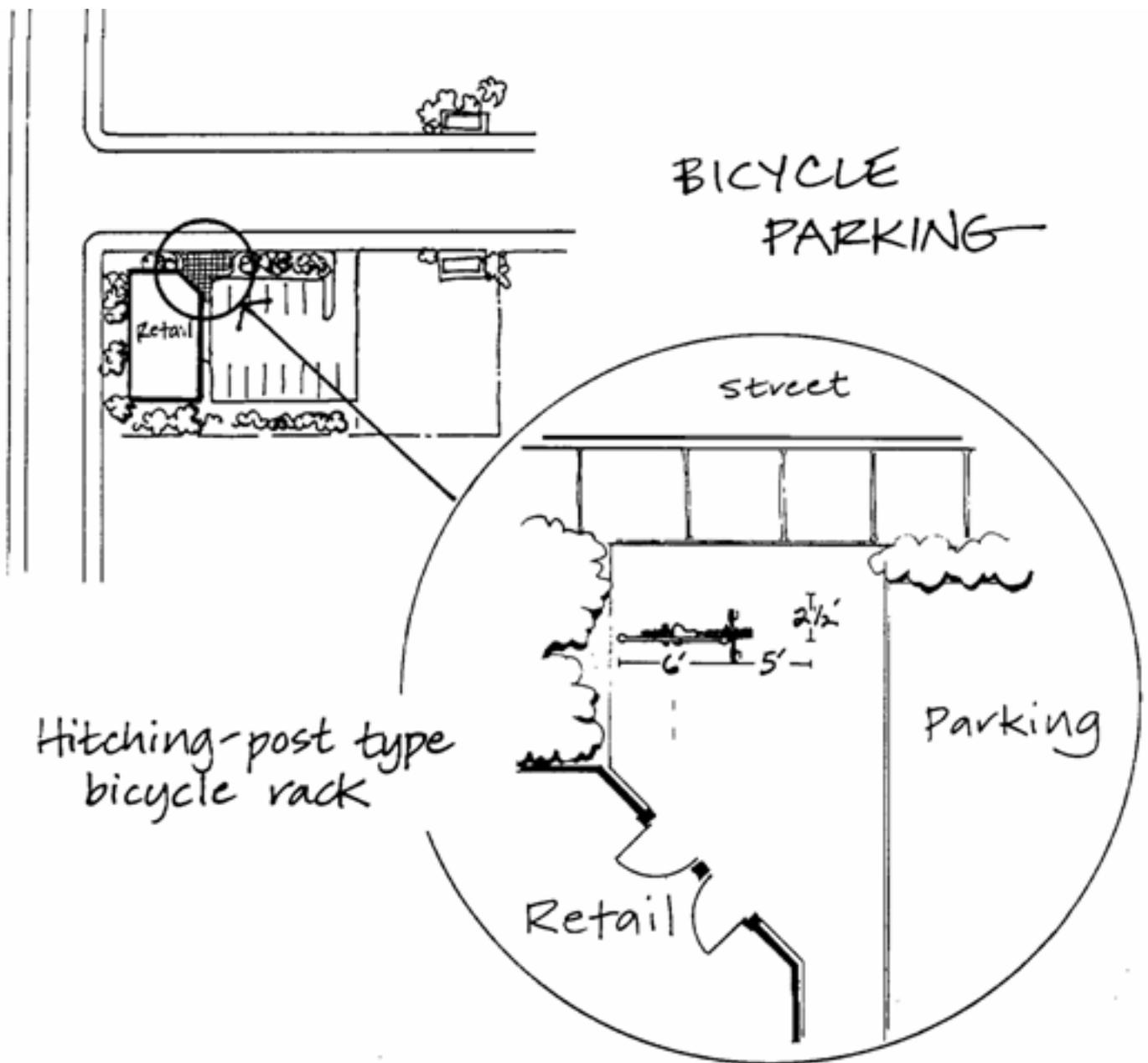
See Figure 19.505 for illustration of space and locational standards.

19.505.5 Covered or Enclosed Bicycle Parking. Covered or enclosed bicycle parking shall be provided when ten percent (10%) or more of automobile parking is covered. If more than ten (10) bicycle parking spaces are required, then a minimum of fifty percent (50%) of the bicycle spaces shall be covered and/or enclosed (lockers).

19.505.6 Lighting. Lighting shall be provided in bicycle parking areas to illuminate facilities at least as well as automobile parking areas. (Ord. 1893 (part), 2001: Ord. 1880 (part), 2000)

Figure 19.505

BICYCLE PARKING



19.506 Carpool and vanpool parking.

New industrial, institutional, and commercial development with fifty or more employees shall provide carpool/vanpool parking. Carpool/vanpool parking shall be provided for at least ten percent of the required parking. (Ord. 1880 (part), 2000)

19.507 Structured parking.

19.507.1 Permitted Zones. Structured parking, including underground parking, shall be permitted in the DS, DC, DO, DR, C-L, C-G, M, C-CS, CSO, and BI zones.

19.507.2 Height. Height of parking structure shall not exceed the maximum height requirement of the underlying zone, unless otherwise permitted by the city based on review of site plan and impacts on adjacent properties.

19.507.3 Design Standards for Structured Parking.

- A. Exterior finish shall be similar to principal building;
- B. Shall be compatible in appearance, size, scale, and bulk of the supported use(s);
- C. Shall meet minimum setback and yard requirements;
- D. Shall comply with perimeter landscaping requirements of surface lots;
- E. Must provide commercial on first floor of structured parking in commercial zones;
- F. Shall provide safe pedestrian connections between parking structure and principal building;
- G. Shall provide adequate lighting to ensure motorist and pedestrian safety within the structured parking facility and connecting pedestrian ways to the principal building.

19.507.4 Incentives for Provision of Structured Parking.

- A. An applicant shall be allowed an additional .5 square feet of development for every one square foot of structured parking provided. The applicant shall meet the other requirements of the zoning ordinance.
- B. If structured parking is underground, the applicant shall be relieved from providing the required off-street parking landscaping and can locate the underground structure within any part of the setback and yard area.

19.507.5 Alternative Parking Plan Required. An applicant that seeks to provide structured parking shall provide an alternative parking plan, reflecting the requirements of this section, for approval by the city. (Ord. 1880 (part), 2000)

Milwaukie Municipal Code

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Chapter 19.600 CONDITIONAL USES

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19.601 Authorization to grant or deny conditional uses.

19.602 Standards governing conditional uses.

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Title 19 ZONING

Chapter 19.600 CONDITIONAL USES**19.601 Authorization to grant or deny conditional uses.**

All applications for conditional uses shall be evaluated by the planning commission at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, under the specific criteria listed in Section 19.601 through Section 19.602. The planning commission may approve or deny the application. If the decision is to approve, the planning commission may impose any conditions deemed necessary to protect the public health, safety, or general welfare from potentially deleterious effects resulting from approval of the permit, or to fulfill the public need for services created by approval of the request.

Approval of a conditional use shall not constitute a change of zoning classification and shall be granted only for the specific use requested subject to such modifications, conditions, and restrictions as may be deemed appropriate by the planning commission, or as specifically provided herein.

19.601.1 Existing Use. In the case of a use existing prior to the effective date of the ordinance codified in this chapter and now classified as a conditional use, any alterations, including but not limited to change in use, lot area, or alteration of structure, shall come before the planning commission to assure conformance with all current requirements for such a conditional use.

19.601.2 Review Criteria. Applicants for conditional use shall provide evidence that all requirements of this title relative to the proposed use are satisfied, and demonstrate that the proposed use also satisfies the following criteria:

- A. The use meets the requirements of a conditional use in the zone currently applied to the site.
- B. The use meets the standards for the underlying zone.
- C. The proposal satisfies the goals and policies of the comprehensive plan which apply to the proposed use.
- D. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
- E. The proposed use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.
- F. The proposed use complies with the transportation requirements and standards of Chapter 19.1400.

19.601.3 Conditions. The planning commission may attach conditions and restrictions to any conditional use approved. The setbacks and limitations of the underlying district shall be applied to the conditional use, unless specifically varied by the commission. Conditions and restrictions may include a

specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds, and other conditions, restrictions, or safeguards that would uphold the intent of the comprehensive plan and mitigate any adverse effect upon adjoining properties which may result by reason of a conditional use being allowed.

19.601.4 Conditional Use Permit. When a conditional use permit is approved by the planning commission, a written permit will be issued to the applicant, in the form of a letter from the planning staff, prior to development of the use. The permit shall stipulate any modifications, conditions, and restrictions imposed by the planning commission, in addition to those specifically set forth in this title. A “Notice of Conditions” will be recorded with the county clerk in the deed files. These conditions may be changed after the granting of a permit only by mutual agreement of the planning commission and the permit holder. A conditional use permit runs with the land and is not affected by a change of ownership.

A. The permit shall become void if construction has not begun within six months, or a request has not been made for a time extension.

B. The planning commission may, upon receiving a written request from the applicant, extend the conditional use permit for a period not to exceed one year.

19.601.5 Reconsideration of a Conditional Use Permit. Approved conditional uses shall be reconsidered by the planning commission at a public hearing, after a complaint has been received by the planning staff, provided the following criteria have been met:

A. The complaint(s) must be in writing, signed by the complainant, and the required fee must be paid.

B. The complaint(s) must address one of the following:

1. Violations of the standards listed in the comprehensive plan or implementing ordinances for the use involved;
2. Failure to satisfy a condition or restriction imposed on the specific use when approval was granted;
3. Incidents which have occurred as a direct result of the conditional use that are detrimental to the health, safety, property, or general welfare of the public.

Reconsideration of a conditional use permit may result in suspension or revocation of the approval under subsection 19.601.6.

19.601.6 Suspension or Revocation of a Permit. A conditional use permit may be suspended or revoked by the planning commission when any condition or restriction imposed is not satisfied.

A. A conditional use permit shall be suspended only after a hearing before the planning commission. Written notice of the hearing shall be given to the permit holder by certified mail at least ten working days prior to the hearing.

B. A suspended permit may be reinstated when, in the judgment of the planning commission, the conditions or restrictions imposed on the approval have been satisfied within a time frame set by the

planning commission.

C. A revoked permit shall not be reinstated. A new application must be made to the planning commission, and a public hearing held.

19.601.7 Review of a Conditional Use Permit Upon Change in Ownership, Use or Tenant.

Upon first learning of the change in ownership, use, or tenant, the director shall conduct an administrative review of the status of the conditional use permit. If the director finds that the conditions attached to the permit have not been met, the director shall notify the new owner or tenant of the conditions and/or restrictions. If the director deems it necessary to achieve compliance, a hearing before the planning commission may be scheduled to consider suspension or revocation of the conditional use permit, in accordance with subsection 19.601.6. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

[19.602 Standards governing conditional uses.](#)

A conditional use shall comply with the standards of the zone in which it is located, except as these standards have been modified in authorizing the conditional use and as otherwise modified as follows:

19.602.1 Yards. In a residential zone, yard width shall be equal to at least two thirds (2/3) of the height of the principal structure. In any zone, additional yard requirements may be imposed.

19.602.2 Height Exception. A church or public building may be built to exceed the height limitations of the zone in which it is located to a maximum height of fifty (50) feet, except as provided in an L-F zone, if the total floor area of the building does not exceed one and one-half (1 1/2) times the area of the site and if the yard dimensions in each case are equal to at least two thirds (2/3) of the height of the principal structure.

19.602.3 Access to Property and Building Openings. The city may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within fifty (50) feet of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.

19.602.4 Surface Mining. In considering a conditional use application for surface mining, the following minimum requirements shall apply:

A. Open pit and gravel excavating or processing shall not be permitted nearer than fifty (50) feet to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than thirty (30) feet to the right-of-way line of an existing or platted street or an existing public utility right-of-way.

B. Production from an open pit or the removal of sand and gravel shall not leave a slope exceeding one (1) foot horizontal for one foot vertical.

C. An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent

unauthorized access.

D. A rock crusher, washer, or sorter shall not be located nearer than five hundred (500) feet to a residential or commercial zone. Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which is injurious or substantially annoying to persons living in the vicinity.

19.602.5 Junk or Wrecking Yard. In considering a conditional use application for a junk or wrecking yard, the planning commission shall require that it be enclosed by a sight-obscuring fence not less than six (6) feet high.

19.602.6 High-Impact Commercial Use. In considering a conditional use application for a high-impact commercial use, the planning commission shall consider the following:

- A. Nearness to dwellings, churches, hospitals or other uses which require a quiet environment;
- B. Building entrances, lighting, exterior signs and other features which could generate or be conducive to noise or other disturbance for adjoining uses;
- C. Parking vehicles and pedestrian access and circulation could contribute to noise or attract habitual assembly or unruly persons;
- D. Hours of operation;
- E. In addition to consideration of the above with respect to building and site design, the planning commission may attach conditions or standards of performance and impact, and methods for monitoring and evaluating these, to insure that such establishments do not become unduly or unnecessarily disruptive.

19.602.7 Single-Family Attached Dwellings. In considering a conditional use application for single-family attached dwellings, the planning commission shall consider the following:

- A. Whether a structure of a similar type is within two hundred (200) feet;
- B. Relationship to neighboring uses;
- C. Street access;
- D. Terrain of the site.

19.602.8 Multifamily Condominium and Apartment Dwellings. In considering a conditional use application for multifamily condominium and apartment dwellings, the planning commission shall consider the following:

- A. Relationship to neighboring uses;
- B. Street access; and
- C. Terrain of the site.

19.602.9 Senior and Retirement Housing. In considering a conditional use application for senior

and retirement housing the planning commission shall consider the following:

- A. Pedestrian access to transit;
- B. Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center;
- C. Pedestrian access to banking, churches, hospitals, and restaurants;
- D. Quality of project as a living environment for residents;
- E. Minimizing impact on the surrounding area.

The planning commission may recommend to the city council an increase in density to as much as that permitted by the next higher zone. The city council shall make the final decision on density increase.

An applicant is required to submit materials and the planning commission shall attach conditions which will ensure that the special nature of the housing, and groups to be served, are clearly defined and maintained in perpetuity. Also a project is required to meet the definition for this type of housing defined in Section 19.103.

19.602.10 Type 2 Accessory Dwelling Unit. A type 2 accessory dwelling unit may be allowed in conjunction with a detached single-family dwelling by conversion of existing space, or by means of an addition.

- A. Requirements for conversion of existing space or addition:
 - 1. The unit is in conformance with the site development requirements of the underlying zone;
 - 2. One (1) off-street parking space is provided for the accessory unit in addition to the required parking for the primary dwelling;
 - 3. Garage or carport space may not be converted to an accessory dwelling unit, unless parking standards can be met after the completion of the unit;
 - 4. Public facilities must be adequate to serve both dwelling units, as determined by the public works department;
 - 5. One (1) unit shall be occupied by the property owner;
 - 6. The planning commission may impose conditions regarding modification of building height, landscaping, buffering and orientation of the accessory unit to protect privacy of the neighbors, and any other conditions deemed necessary to ensure compliance with the requirements of this section, except that no condition may be imposed that prohibits rental occupancy, separate access, and full kitchens in any accessory unit;
 - 7. Conditions of approval shall be part of the deed restrictions;
 - 8. No more than one additional unit is allowed.
- B. Requirements for Conversion of Existing Space.

1. Cannot exceed fifty percent of the existing structure;
2. Each unit shall be a minimum of two hundred fifty square feet;
3. No fire escape or exterior stair for access to an upper level may be located on the front of a building.

C. Requirements for Addition:

1. Does not exceed one bedroom;
2. The maximum area is eight hundred square feet. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

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[Title 19 ZONING](#)

Chapter 19.700 VARIANCES, EXCEPTIONS, AND HOME IMPROVEMENT EXCEPTIONS

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The planning commission, design and landmarks commission as provided in Section 19.312.7H or planning director may authorize variances from the standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the planning commission, design and landmarks commission or planning director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1849 (part), 1999)

19.702 Circumstances for granting variances.

A variance may be granted only when the planning commission or planning director finds all of the following criteria are satisfied.

19.702.1 Criteria for Granting Variances.

A. That the property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.

B. That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.

C. That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible. (Ord. 1849 (part), 1999)

19.703 Administrative variance.

A variance of up to ten percent of the standard required may be reviewed and approved or denied by the planning director. Procedures per subsection 19.1011.2, Type II Administrative Review, shall be followed. Findings as specified in Section 19.702 shall be made. (Ord. 1849 (part), 1999)

[19.704 Variance procedure.](#)

Variance requests in excess of ten percent from the standard required shall require forms and procedures outlined in Sections 19.1003-19.1010 and subsection 19.1011.3, Minor Quasi-Judicial Review. Findings as specified in Section 19.702 must be made. (Ord. 1849 (part), 1999)

[19.705 Authorization to grant or deny exceptions.](#)

19.705.1 Circumstances. The planning commission may authorize exceptions to uses established by this title upon a determination that the following circumstances exist:

- A. Exceptional circumstances apply to the property which do not apply generally to other properties in the same zone, resulting from circumstances over which the applicant has no control;
- B. The proposed use would not be substantially detrimental to the interests of neighboring, but not necessarily adjacent, owners;
- C. That substantial justice to all owners would be afforded thereby within the purposes of this title;
- D. There exists no other practical use of the property under the provisions of this title;
- E. Economic hardship shall not be a primary basis for allowance of an exception nor shall circumstances of which applicant had prior knowledge be considered upon application. (Ord. 1849 (part), 1998)

[19.706 Exception procedures.](#)

The procedures in applying for and acting upon an exception shall be the same as those of Section 19.704. (Ord. 1849 (part), 1998)

[19.707 Home improvement exceptions.](#)

19.707.1 Purpose. The purpose of a home improvement exception is to allow, under special circumstances, relief from the requirements of the zoning ordinance where it is desirable to sustain the integrity of or enhance an existing residential design concept or the neighborhood character. A home improvement exception may be approved to grant relief from the strict provisions of the zoning ordinance for yards and lot coverage. The total floor area approved through home improvement exceptions on a given parcel shall not be more than two hundred fifty square feet and no more than one hundred square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the two hundred fifty-square-foot limit. Home improvement exceptions may not be granted to allow a use, activity, or an increased

number of dwelling units that are not permitted by the zoning ordinance.

19.707.2 Conditions to Qualify for a Home Improvement Exception. All of the following conditions must be met to make application for a home improvement exception:

- A. The home improvement exception is for an addition to an existing single-family residential dwelling or attached garage in the R-10, R-7, R-5, or R-3 zones;
- B. The home improvement exception is for an addition to an existing two-family residential unit or attached garage in the R-5, R-3, R-2, or R-1 zones;
- C. The date of the granting of a certificate of occupancy for the subject residential unit is five or more years before the date of application;
- D. At least seventy-five percent of the exterior walls (linear feet) will remain;
- E. A yard requirement will not be reduced by more than fifty percent, and the addition will be located no closer than five feet from the property line (including landings, overhangs, and eaves). (Ord. 1849 (part), 1998)

[19.708 Circumstances for granting home improvement exceptions.](#)

A home improvement exception may be granted only when the Planning Director finds all of the following criteria satisfied:

19.708.1 Circumstances.

- A. There are conditions applicable to the property, or the existing structure has a design, such that the proposed project would result in only minor exterior changes;
- B. The home improvement exception sustains the integrity of or enhances an existing design concept or the neighborhood character;
- C. The granting of the application will not be detrimental or injurious to the property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience;
- D. The home improvement exception only authorizes uses or activities that are permitted by the zoning district;
- E. The home improvement exception is consistent with the objectives of the comprehensive plan and zoning ordinance.

In determining whether to approve or deny exceptions pursuant to this section, the planning director shall consider such applicable residential design guidelines as may be adopted for the neighborhood district in which the site is located.

A home improvement exception shall not be granted for a structure if a building code or zoning

ordinance violation exists at the site. A building code violation cannot be used to justify the integrity of an existing design concept, and a final building permit inspection for a home improvement exception may not occur until all building violations have been corrected. (Ord. 1849 (part), 1998)

[19.709 Home improvement exception procedures.](#)

Home improvement exceptions may be reviewed and approved or denied by the planning director. Procedures per subsection 19.1011.2, Type H Administrative Review, shall be followed. (Ord. 1849 (part), 1999)

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Chapter 19.800 NONCONFORMING USES

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19.801 Continuation of a nonconforming structure.

Subject to the provisions of this section, a nonconforming structure may be continued and maintained in a reasonable repair, but shall not be altered or extended unless such alteration or extension is approved by the community development director per subsection 19.1011.2, Type II Administrative Review. A decision will be rendered based upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties than the existing structure. (Ord. 1712 (part), 1991)

19.802 Continuation of a nonconforming use.

A nonconforming use may be continued, but shall not be altered unless such alteration is approved by the planning commission after a public hearing in accordance with subsection 19.1011.3, Minor Quasi-Judicial Review, upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties than the existing use. A nonconforming use that is limited to a portion of a property may not be relocated to a different portion of the property on which it is located or to any other property. (Ord. 1907 (Attach. A), 2002; Ord. 1712 (part), 1991)

19.803 Discontinuance of nonconforming use.

19.803.1 Nonconforming Use Involving a Structure. If a nonconforming use involving a structure is discontinued for a period of six (6) months, further use of the property shall conform to this chapter.

19.803.2 Nonconforming Use Not Involving a Structure. If a nonconforming use not involving a structure is discontinued for a period of six (6) months, further use of the property shall conform to this chapter. (Ord. 1712 (part), 1991)

19.804 Improvement of certain nonconforming uses.

A use which is nonconforming with respect to provision for screening shall provide screening within a period of five (5) years from the effective date of Ordinance 1438 (November 5, 1979). (Ord. 1712 (part), 1991)

[19.805 Change of nonconforming structure.](#)

Except for signs, a structure conforming as to use but nonconforming as to height, yard requirements, or lot coverage may be altered or extended provided the alteration or extension does not exceed the height, yard requirements, or lot coverage requirements of this title. (Ord. 1712 (part), 1991)

[19.806 Change of nonconforming use.](#)

19.806.1 Nonconforming Use Not Involving a Structure. If a nonconforming use not involving a structure is replaced by another use, the new use shall conform to this title.

19.806.2 Nonconforming Use Involving a Structure. If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this title unless the planning commission, after a public hearing as provided in subsection 19.1011.3, Minor Quasi-Judicial Review, determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced. (Ord. 1712 (part), 1991)

[19.807 Destruction of nonconforming structure or use.](#)

A. If a nonconforming structure is destroyed by any cause to an extent exceeding fifty percent (50%) of its real market value, a future structure on the site shall conform to this title except as provided in subsection 19.807(C).

B. If any structure containing a nonconforming use is destroyed by any cause to an extent exceeding fifty percent (50%) of its real market value, and is not returned to use within six (6) months by obtaining occupancy approval under applicable building codes, future uses on the site shall conform to this title, except as provided in subsection 19.807(C).

C. Where damage or destruction to either a nonconforming structure, or a conforming structure containing a nonconforming use, occurs by accident or natural hazard, the nonconforming situation may be restored subject to the following:

1. Within one (1) month of the date the damage was incurred, the property owner shall submit notice of intent to restore the nonconforming situation to the planning director.

2. The planning director shall issue acknowledgment of the notice of intent upon receipt and the six (6) month time period in which to repair the premises described in subsection 19.807(B), shall be extended to one (1) year.

3. The planning director may authorize an extension to the one (1) year period, described in subsection 19.807(C)(2), not to exceed six (6) months upon a good faith showing by the property owner

that work to restore the premises has been delayed due to legal or other proceedings necessary to resolve insurance claims, business negotiations, architectural or engineering design for reconstruction or acquire needed land use approvals and construction permits. (Ord. 1912 (Attach. 4), 2002; Ord. 1907 (Attach. A), 2002; Ord. 1712 (part), 1991)

19.808 Completion of structure.

Nothing contained in this title shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction work has commenced prior to effective date of Ordinance 1438 (November 5, 1979), provided the building, if nonconforming or intended for a nonconforming use, is completed and in use within two (2) years from the time the building permit is issued. (Ord. 1712 (part), 1991)

19.809 Determination of nonconforming situations.

19.809.1 Planning Director's Determination. The planning director shall make a determination regarding the legal status of a nonconforming use, structure, or other applicable zoning requirements in accordance with Section 1011.1 Type I administrative review. Any nonconformity shall be known as a nonconforming situation for the purpose of this section. Determinations of nonconforming situations shall be made using the following criteria.

A. Proof that the nonconforming situation was permitted under applicable regulations at the time it was established, including:

1. Copies of building and/or land use permits issued at the time the use, building, or other condition was established;
2. Copies of zoning code provisions and/or maps;
3. Demonstration that the situation was established before the applicable development code for the community was adopted; and

B. Proof that the situation has been legally maintained over time. Evidence that the nonconforming situation has been maintained over time including:

1. Utility bills;
2. Income tax records;
3. Business licenses;
4. Listings in telephone, business and Polk directories;
5. Advertisements in dated publications, e.g., trade magazines; and/or
6. Building, land use or development permits.

C. Submission of the applicable fee as adopted by the city council. (Ord. 1907 (Attach. A), 2002)

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An amendment to the Milwaukie zoning map or to the text of this title may be initiated by the city council, by the planning commission, or by the application of a property owner. (Ord. 1854 (part), 1999)

19.902 Amendment procedure.

19.902.1 The following application and review procedures shall be in effect for all proposed amendments:

A. The planning commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the application has been determined to be complete by the director. Zoning map amendments shall follow the procedures outlined in subsection 19.1011.4, Major Quasi-Judicial review. Zoning text amendments shall follow the procedures outlined in subsection 19.1011.5, Legislative actions.

B. Notice to Metro. The planning department shall provide notice to Metro of any proposed amendment to the comprehensive plan or zoning ordinance, subject to Milwaukie zoning ordinance subsection 19.1011.4, Major Quasi-Judicial review, and 19.1011.5, Legislative actions. Any copy of notice required pursuant to subsections 19.1011.4 and 19.1011.5, and provided to Oregon Department of Land Conservation and Development (DLCD) pursuant to ORS 197.610 or 197.615, shall be sent to Metro's executive officer at least forty-five (45) days before the final hearing on the adoption of any amendment. Notice to Metro shall include the same content as notice to DLCD pursuant to ORS 197.610 or 197.615 and, if available, shall include analysis demonstrating that the proposed amendments are consistent with the Metro urban growth management functional plan. If the analysis demonstrating consistency with the functional plan is not included in the initial notice, a report containing the analysis shall be delivered to Metro no later than fourteen (14) days before a final hearing.

C. Denial of the proposed amendment shall be final unless it is appealed to the city council as provided under Section 19.1002 of this title.

D. Upon approval of the proposed amendment by the planning commission, the director shall provide a report of the commission's recommendation to the city council within forty (40) days after the hearing. (Ord. 1854 (part), 1999)

19.903 Requirements for zoning map amendments.

19.903.1 Proposals for zoning map amendments must provide evidence that all requirements of this title relative to the proposed use or uses are satisfied, in addition to addressing the following:

- A. Applicable requirements of Section 19.1003;
- B. Reasons for requesting the zoning map amendment;
- C. Description of existing site conditions, including but not limited to topography, public facilities and service, natural hazards, natural areas or open space, historic sites, transportation, current uses of the subject site and current zoning of the subject site;
- D. Description of the intended use or uses;
- E. Identification on a detailed site plan of public facilities both existing and proposed; existing and proposed structures and site development details, including display of setback and other zoning standards compliance information; and an indication of mitigation or other measures proposed for purposes of health, safety or welfare within the community.
- F. The approval criteria of Section 19.905. (Ord. 1854 (part), 1999)

19.904 Requirements for zoning text amendments.

19.904.1 Proposals for zoning text amendments must provide written evidence that the following requirements are satisfied:

- A. Applicable requirements of Section 19.1003;
- B. Reasons for requesting the proposed text amendments;
- C. Explanation of how the proposed text amendment is consistent with other provisions of this title;
- D. The approval criteria of Section 19.905. (Ord. 1854 (part), 1999)

19.905 Approval criteria for all amendments.

19.905.1 For all proposals, the applicant shall have the burden of proof regarding the following criteria:

- A. The proposed amendment must conform to applicable comprehensive plan goals, policies and objectives and be consistent with the provisions of city ordinances, Metro urban growth management functional plan and applicable regional policies.
- B. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone

amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weigh these factors in determining the intent of the proposed zone.

C. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.

D. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

E. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400. (Ord. 1893 (part), 2001: Ord. 1854 (part), 1999)

[19.906 Conditions of approval.](#)

Conditions of approval may be applied to zoning map amendments for purposes of fulfilling identified need for public facilities and/or meeting applicable regional, state or federal regulations. Conditions of approval may include actual construction of facilities or a performance contract, bond, or escrow account to assure installation of public facilities to specified standards. (Ord. 1854 (part), 1999)

[19.907 Modification of official zoning map.](#)

For zoning map amendments not involving conditions of approval, community development staff shall modify the official zoning map of the city at such time as the ordinance of adoption goes into effect. For zoning map amendments involving conditions of approval, zoning map modification shall not occur until all conditions of approval are satisfied by verification by appropriate city staff. (Ord. 1854 (part), 1999)

[19.908 Revocation.](#)

If conditions of approval are not met within two (2) years of ordinance adoption, the planning commission shall hold a public hearing to consider the revocation of the approved zoning. This review shall follow the procedures of subsection 19.1011.3, Minor Quasi-Judicial Review. The planning commission may also, upon determination that the applicant is making satisfactory progress towards completing conditions of approval, grant one time extension not to exceed a maximum of two (2) years. (Ord. 1854 (part), 1999)

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Chapter 19.1000 ADMINISTRATIVE PROVISIONS

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Chapter 19.1000 ADMINISTRATIVE PROVISIONS

19.1001 Administration.

19.1001.1 Authority. The planning director shall have the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the planning director regarding a requirement of this title may be made to the planning commission under provisions of this section.

19.1001.2 Application and Fee Required. Applications and requests for actions authorized under this title shall be made in accordance with provisions of this chapter. Application and other applicable fees as established by resolution of the city council shall be paid at the time the application or request is submitted.

19.1001.3 Consistency with Statute. Applications for action authorized under this title shall be processed in accordance with Oregon Revised Statutes Chapter 227.178.

19.1001.4 Planning Director's Interpretations.

A. Purpose. The planning director's interpretation process is established to resolve unclear or ambiguous terms, phrases, and provisions within Titles 14-Sign Ordinance, 17-Subdivision Ordinance, and 19-Zoning Ordinance. This process may be used independent of, or concurrent with, applications for a particular permit or land use application. All director's interpretations are subject to appeal in accordance with this section.

B. Requests. A request for an interpretation shall be made in writing to the director. The director may develop guidelines to govern the request process.

C. Independent Interpretations: The director may issue interpretations independent of a request by another party.

D. Decision to Issue. The director shall have the authority to consider the request for an interpretation. The director shall respond within fourteen (14) calendar days after the request is made, as to whether or not an interpretation will be issued.

E. Director may Decline. The director is authorized to issue or decline to issue a requested interpretation. The director's decision to issue or decline to issue an interpretation is final when such decision is mailed.

F. Written Interpretation Mailed. If the director decides to issue an interpretation as requested, it shall be issued in writing and shall be mailed to the person requesting the interpretation and any other person that has specifically requested a copy of such interpretation.

G. Appeal to Planning Commission. The applicant and any party who received notice of interpretation or who participated in the proceedings through the submission of written or verbal evidence of an interpretation, may appeal the director's interpretation to the planning commission within fourteen (14) days after the interpretation is mailed to the applicant. The appeal may be initiated by filing a notice of appeal with the director. The appeal fee as adopted by the city council shall accompany all appeals.

H. Appeal Procedure. The planning commission shall hear all appeals of a director's interpretation within forty (40) days of filing the appeal. Appeal hearings shall be conducted under procedures established under Section 19.1011.3 Minor Quasi-Judicial Review except as modified by this section. Notice of the meeting at which the appeal will be heard shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who has requested notice.

I. Final Decision/Effective Date. The decision of the planning commission on an appeal of a director's interpretation is effective when notice of the decision is mailed to the applicant; provided however, that if the applicant is the planning director or the planning commission; the decision is final and effective when made.

J. City Council Appeal. The planning commission's decision on an appeal of a director's interpretation may be appealed to the city council.

19.1001.5 Determination of Completeness.

A. Consistency with Submission Requirements. The planning director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this section shall be deemed incomplete for the purpose of Oregon Revised Statutes 227.178 and Chapter 19.1000. The planning director shall provide notice to the applicant as to whether an application is complete or incomplete within thirty (30) calendar days of receipt of the application. If the application is incomplete the notice provided for in this section shall specify what information is needed to make the application complete.

B. Applications for actions authorized under this title shall include the following unless waived in accordance with subsection 19.1001.6:

1. Completed application form signed by all owners of property included in the proposal or signed authorization for the applicant to act as agent on behalf of property owners;
2. Application fee as adopted by the city council;
3. Completed and signed submission requirements and application checklist forms; and
4. All information specified on the application checklist and submission requirements forms.

C. Time allowed to complete submission. If the planning director finds that the application submission is not complete, the missing information shall be submitted within fifteen (15) workdays from the date of the

director's notice. If the missing information is not provided within fifteen (15) workdays, the application shall be rejected.

D. Reactivation of rejected applications may only be made by resubmission of a complete application and fee.

19.1001.6 Waiver of Submission Requirements.

A. Certain application submission requirements may be waived at the discretion of the planning director subject to meeting the following conditions:

1. The request is submitted in writing;
2. The applicant shows good cause for the requested waiver;
3. The waiver does not compromise a proper and complete application review; and
4. The information is not material to describing the proposal or demonstrating compliance with approval criteria.

B. Application submission requirements that may not be waived include:

1. Signed and completed application form, submission requirements form, and application checklist;
2. Authorization of property owner for application to be made;
3. Detailed narrative description that specifies how the proposal complies with applicable codes; and
4. Required plans, maps, and drawings.

C. Application fees may only be waived by action of the city council. (Ord. 1907 (Attach. 2), 2002)

[19.1002 Time limit and appeal from ruling of planning commission.](#)

Final action or ruling on any request pursuant to this title, including resolution of all appeals under ORS 227.180, shall be given within one hundred twenty (120) calendar days after an application is received and is deemed complete. This does not apply to an amendment to an acknowledged comprehensive plan or adoption of a new land use regulation. A waiver of the one hundred twenty- (120)-day processing time limit may be granted upon submission of a written request for extension by all applicants. Any action or ruling of the planning commission pursuant to this title may be appealed to the city council within fifteen (15) calendar days after the planning commission has rendered its decision. Written notice of the appeal shall be filed with the city recorder. If the appeal is not filed within the fifteen- (15)-day period, the decision of the planning commission shall be final. If the appeal is filed, a report and recommendation on the planning commission's decision shall be forwarded to the city council; and the council shall hold a public hearing on the appeal within forty (40) calendar days of receiving a request for an appeal. An appeal of a planning commission decision shall specify, in detail, the issues or findings in contention so as to afford the city council and interested parties an adequate opportunity to

respond to and resolve each issue. Notice for the appeal hearing shall: be provided to the applicant and other persons as otherwise provided by law; include a description of applicable criteria; include a street address or other geographical reference; state the time, date, and location of the hearing; state that failure to raise an issue in person or by letter precludes appeal and that failure to specify to which criterion the comment is directed precludes appeal based on that criterion; and be mailed at least ten (10) calendar days before the hearing. At the commencement of the city council appeal hearing, a statement shall be made to those attendance that: describes the applicable substantive criteria, testimony and evidence must be directed at the issues raised in the appeal, and failure to address a criterion precludes an appeal based on that criterion. (Ord. 1762 (part), 1994)

[19.1003 Form of petitions, applications, and appeals.](#)

All petitions, applications, and appeals provided for in this title shall be made on forms prescribed by the city. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure, or part thereof; the number of families, if any, to be accommodated thereon; and such other information as is needed to determine conformance with this title. (Ord. 1762 (part), 1994)

[19.1004 Review of application.](#)

(Repealed by Ord. 1907)

[19.1005 Concurrent reviews.](#)

Applications for more than one land use review on the same property, and all integral parts of the same development proposal, may be processed in a single hearing at the request of the applicant. Separate findings shall be required for each decision and one (1) decision may be rendered contingent upon another decision. Concurrent reviews of applications are subject to the one hundred twenty- (120)-day time limit. (Ord. 1762 (part), 1994)

[19.1006 Filing fees.](#)

A fee as established by resolution of the city council, to aid in defraying the city's cost of processing applications, shall be paid to the city upon the filing of an application. Such fees shall not be refundable. Fees for preparation of written transcripts shall not exceed the actual cost of the transcript up to five hundred dollars (\$500.00), plus one half (1/2) of the actual cost over five hundred (500) dollars. (Ord.

1762 (part), 1994)

[19.1007 Applicable standards and criteria.](#)

If the application was complete when first submitted, or the applicant submits the requested additional information within one hundred eighty (180) calendar days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted. (Ord. 1762 (part), 1994)

[19.1008 Ex parte contact.](#)

Prior to rendering a decision, no member of a review body shall communicate, directly or indirectly, with any person interested in the outcome or any representative in connection with any issue involved in an application except upon notice and opportunity for all parties to participate. Should such communications occur, the member of the review body shall:

19.1008.1 Enter into the record the substance of any such written or oral communication; and

19.1008.2 Publicly announce the content of the communication and provide an opportunity to rebut the substance of the contact. (Ord. 1762 (part), 1994)

[19.1009 Decisions.](#)

A decision may be made to grant, grant with conditions, modify, or deny an application as provided by the applicable approval criteria. (Ord. 1762 (part), 1994)

[19.1010 Mandamus authorized.](#)

(Repealed by Ord. 1907)

[19.1011 Procedures.](#)

19.1011.1 Type I Administrative Review. A type I procedure is an administrative process and the decision, based on the relevant standards, is made by the community development director without a public hearing. Such decision is final for the purposes of review upon signing by the director if all standards are met. Section 19.1001 provides for appeal of decision by the community development director.

A. Notification. No notification is required.

B. Decision. A decision shall grant or deny the application. The decision will be made within ten (10) days of receipt of an application in the community development department. An applicant will be notified by phone or by mail within five (5) days of the decision. Any decision may be appealed to the planning commission per Section 19.1001 of the zoning ordinance.

19.1011.2 Type II Administrative Review. A type II procedure provides for an administrative decision with the option of a public hearing.

A. Public notification. Within fifteen (15) days of the receipt of an application, the director will mail a notice of tentative decision. This notice shall contain a description of the request and shall describe the tentative decision made by the director, including findings and conclusions based on the applicable criteria. It will specify the deadline for submission to request a public hearing and provide for potentially affected persons to communicate concerns to the director, who will take them into account in reaching a final decision on the application. The notice shall be mailed to the owner, applicant, and all property owners within three hundred (300) feet of the outer boundaries of the site. For applications in the downtown zones, notice shall also be given to the design and landmarks commission. The names and addresses used for this purpose shall be those shown on the current records of the county assessor. At least fourteen (14) days shall be given from the date of the notice to state objections or request a public hearing. The notice shall also contain a listing of the applicable criteria upon which the decision was based.

B. Administrative Action. If a public hearing is requested, the application shall follow the procedures of subsection 19.1011.3, Minor Quasi-Judicial Review. The director or the applicant may immediately request a public hearing if it appears that the application has potential for controversy or there is difficulty in applying the applicable criteria. If no request for a public hearing is received by the community development director, the director may grant the application, either with or without conditions, without a hearing, if applicable criteria are met. The applicant, property owner, and all property owners within the notification area shall be renotified if a final decision is changed. If either the applicant or persons with concerns are not satisfied with the director's decision, they may appeal per the provisions of Section 19.1002 and the matter will be subject to the provisions of subsection 19.1011.3, Minor Quasi-Judicial Review.

C. Public Hearing. If any interested person or notified property owner responds and requests an opportunity to testify at a public hearing, a hearing shall be scheduled according to the "Public Hearing Schedule" outlined by the community development department and shall follow procedures outlined in subsection 19.1001.3, Minor Quasi-Judicial Review. For applications in the downtown zones, a design and landmarks commissioner may request the application be set for public hearing before the design and landmarks commission.

19.1011.3 Minor Quasi-Judicial Review. A minor quasi-judicial procedure requires a public hearing in front of the planning commission or the design and landmarks commission, as specified in this

section. The design and landmarks commission shall consider downtown design review, variances to developments standards in the downtown zones and historic resource review. The planning commission shall consider all other minor quasi-judicial matters.

A. Preapplication Conference. A preapplication conference may or may not be required. The applicant or the director may request a preapplication conference.

B. Public Notification. Notice shall be mailed to the property owner and applicant, if different, and to all property owners within three hundred (300) feet of the outer boundaries of the site, not less than twenty (20) days prior to the date of the hearing. In addition, a sign that is legible from the closest street, indicating the date of the public hearing, shall be posted on the subject property not less than ten (10) days prior to the date of the hearing.

C. Notice for Community Service Overlay Uses and Community Scale Shopping Center Use. Notice for development of community service uses shall be mailed to the applicant, property owner, and all property owners within three hundred (300) feet of the outer boundaries of the site. The names and addresses for this purpose shall be those shown on the current records of the county assessor. In addition, a sign that is legible from the closest street, indicating the date of the public hearing, shall be posted on the subject property not less than ten days prior to the date of the hearing. Notice of a hearing shall be published once each week for two (2) consecutive weeks in a newspaper of general circulation in the city, of which the second publication shall be not less than five (5) days prior to the date of the hearing.

D. Notice for Development Within the Willamette Greenway Zone. Notice of a hearing on a conditional use in the WG zone shall follow the procedures subsection C above. Also, interested groups and the Oregon Department of Transportation (ODOT) shall be notified of a public hearing. ODOT shall be notified by “certified mail, return receipt requested.”

E. Decision. The planning commission or design and landmarks commission shall conduct the public hearing and render a decision on the matter including findings, conclusions, and conditions, if necessary, based on compliance with the applicable comprehensive plan goals and policies and other applicable implementing ordinances. Community development staff shall notify the applicant, the property owner if different, and any individual who testified, either in person or in writing, at the hearing, within five (5) days after the final decision.

19.1011.4 Major Quasi-Judicial Review. A major quasi-judicial action provides for a zoning map amendment or a comprehensive plan map amendment.

A. Preapplication Conference. A preapplication conference shall be required. The applicant or the director may request a preapplication conference.

B. Public Notification. Public notice shall be mailed to the applicant of the subject property, the property owner if different, and all property owners and residents within four hundred feet (400) of the site, at least ten (10) days prior to the date of the scheduled hearing. Notice of a hearing shall be

published once each week for two (2) consecutive weeks in a newspaper of general circulation in the city, of which the second publication shall be not less than five (5) days prior to the date of the hearing. In addition, a sign that is legible from the closest street, indicating the date of the public hearing, shall be posted on the subject property not less than ten (10) days prior to the date of the hearing.

C. Notice for Deletion of Historic Preservation Overlay Zone. Notice for deletion of an historic preservation overlay zone shall follow the procedures of subsection B above. In addition, notice of a public hearing shall also be mailed to the Oregon Department of Land Conservation and Development (DLCD).

D. Decision. The planning commission shall conduct the public hearing and may deny the application or recommend approval to the city council based on compliance with the applicable comprehensive plan goals and policies and compliance with subsection 19.903.1 of the zoning ordinance. A denial of the proposed amendment shall be final unless it is appealed to the city council as provided under Section 19.1002. Upon a recommendation of approval of the proposed amendment by the planning commission, within forty (40) calendar days after the hearing, a report recommending approval shall be provided to the city council. This recommendation shall include findings of fact and conclusions. The city council shall conduct a public hearing. Public notification of this hearing shall be given as per subsection B above. Community development staff shall notify the applicant, the property owner if different, and any individual who testified, either in person or in writing, at the hearing, within five (5) days after the final decision.

19.1011.5 Legislative Actions. Legislative actions provide for the establishment and modification of legislative land use policies and plans. This includes, but is not confined to a zoning ordinance or comprehensive plan text amendment, adoption of a neighborhood plan or area design guidelines, or establishment of a plan district.

A. Public Notification. Notice of a hearing shall be published once each week for two (2) consecutive weeks in a newspaper of general circulation in the city, of which the second publication shall not be less than five (5) days prior to the date of the hearing. Preliminary neighborhood meetings or other public meetings may be held, as appropriate, prior to the public hearing.

B. Decision. The planning commission or design and landmarks commission as provided in Section 19.312 shall conduct a public hearing and shall make a decision based on compliance with the applicable goals and policies of the comprehensive plan. The planning commission or design and landmarks commission shall prepare a recommendation to the city council. If the commission denies the proposal, and it was the initiator of the proposal, the matter shall be terminated. If the proposal was initiated by the city council and the commission denies it, the proposal shall be forwarded to city council with a report and recommendation of denial. If the proposal is approved by the commission, a report and recommendation, including findings and conclusions, shall be forwarded to council. The city council

shall conduct a public hearing. Public notification of this hearing shall be given as per subsection A above. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1762 (part), 1994)

[19.1012 Recess of hearing.](#)

The planning commission, city council or design and landmarks commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to resume shall be announced. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1762 (part), 1994)

[19.1013 Time limit on a permit for a conditional use or variance.](#)

Authorization of actions covered by Chapters 19.600, 19.700, and 19.800 shall be void after six (6) months unless substantial construction pursuant thereto has taken place. However, the planning commission may at its discretion extend authorization for an additional one (1) year upon request. (Ord. 1893 (part), 2001; Ord. 1762 (part), 1994)

[19.1014 Permits, inspections, and occupancy approvals required.](#)

A. The planning director shall review all permits for construction or other activity that is authorized under Titles 14, 17, and this title for compliance with applicable code provisions.

B. The planning director may approve or deny applications for building and sign permits based on consistency with applicable code provisions.

C. All development authorized by approved building and sign permits shall be in substantial conformance with plans approved by the planning director.

D. Buildings for which permits have been issued, shall not be occupied without prior occupancy approval in accordance with this section.

E. Occupancy approvals shall not be issued until completion of final zoning inspections and issuance of notice of completion by the planning director. Approval criteria for issuance of notice of completion includes:

1. A written statement from the applicant that all improvements have been constructed in accordance with approved plans except as modified and approved by appropriate approval authorities;
2. Completion of zoning inspection by the planning director and confirmation that the project is in substantial conformance with approved plans; and

3. Payment of the final zoning inspection fee as adopted by the city council.

F. The planning director shall complete the final zoning inspection within five (5) working days of receiving the applicant's request for final zoning inspection and the written statement required under subsection D of this section. (Ord. 1907 (Attach. 2), 2002)

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Chapter 19.1100 MISCELLANEOUS PROVISIONS

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19.1103 Repeal.

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19.1101 Interpretation.

Where the conditions imposed by any provisions of this title are less restrictive than comparable conditions imposed by any other provisions of this title, or of any other ordinance, resolution, or regulation, the provisions which are most restrictive shall govern. (Ord. 1712 (part), 1991)

19.1102 Severability.

The provisions of this title are severable. If any section, sentence, clause, or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this title. (Ord. 1712 (part), 1991)

19.1103 Repeal.

Ordinance No. 1438 and all amendments thereto are hereby repealed, with the provision that violations of that ordinance and all amendments thereto shall remain violations to the extent that the matters in violation do not conform to the provisions of this title. (Ord. 1712 (part), 1991)

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Chapter 19.1200 REMEDIES

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19.1202 Alternative remedy.

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19.1201 Penalty.

A person violating a provision of this title shall, upon conviction, be punished by imprisonment for not more than thirty days, or by a fine of not more than two hundred dollars, or both. A violation of this title shall be considered a separate offense for each day the violation continues. (Ord. 1712 (part), 1991)

19.1202 Alternative remedy.

In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used in violation of this title, the building or land in violation shall constitute a nuisance, and the city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use. (Ord. 1712 (part), 1991)

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Chapter 19.1300 SOLAR ACCESS PROTECTION

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Title 19 ZONING

Chapter 19.1300 SOLAR ACCESS PROTECTION**19.1301 Purpose.**

19.1301.1 The purpose of this section is:

- A. To provide solar access protection to new development in subdivisions, new and remodeled single-family homes, structures within single-family zoning districts and homes which make beneficial use of solar energy;
- B. To promote energy conservation and the effective use of the sun as a renewable resource;
- C. To implement provisions of the Milwaukie comprehensive plan encouraging use of solar energy;
- D. To provide a means of encouraging investment in solar design and solar equipment. (Ord. 1712 (part), 1991)

19.1302 Definitions.

19.1302.1 For the purposes of this section, the following definitions shall apply:

“Azimuth” means a horizontal direction expressed as a distance in angles between the direction of a fixed point and the direction of an object being measured.

“Crown cover” means the area within the drip line or perimeter of the foliage of a tree.

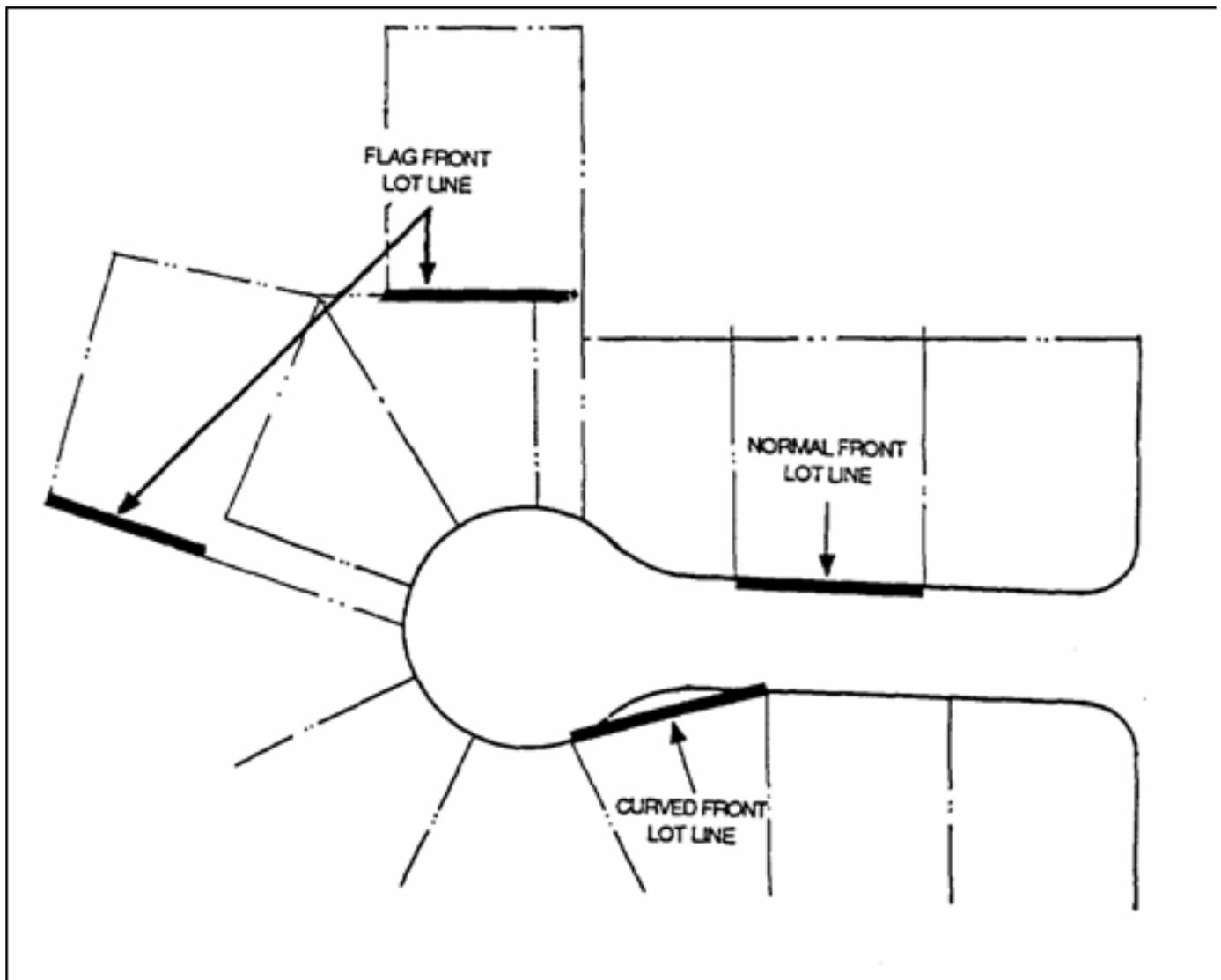
“Development” means any partition, subdivision, or planned unit development that is created under the city's land division or zoning regulations.

“Director” means the community development director of the city or designee.

“Exempt tree or vegetation” means the full height and breadth of vegetation that the director has identified as “solar-friendly,” any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.

“Front lot line” means for purposes of the solar access regulations, a lot line abutting a street. For corner lots, the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot, excluding the unbuildable portion of the pole (see Figure 1).

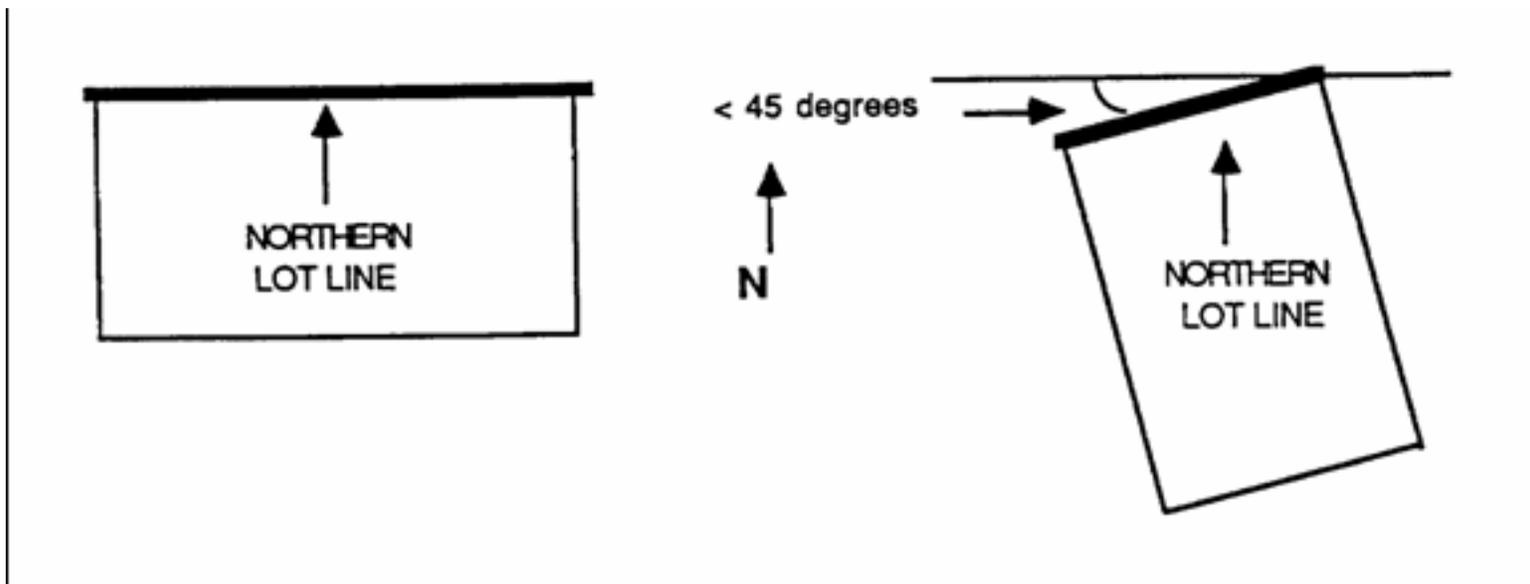
Figure 1.
FRONT LOT LINE



“Nonexempt tree or vegetation” means vegetation that is not exempt.

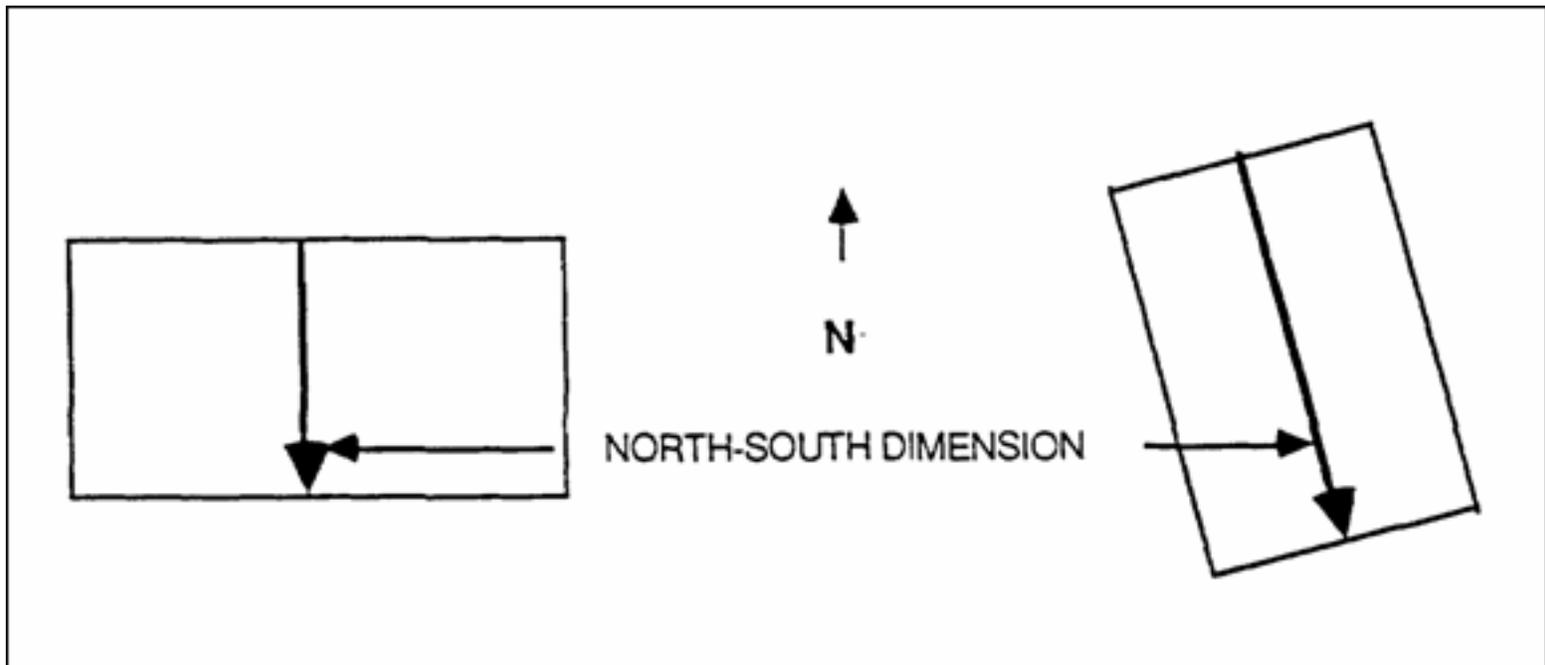
“Northern lot line” means the lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two lot lines have an identical angle relative to a line drawn east-west, or if the northern lot line is less than thirty-five feet, then the northern lot line shall be a line thirty-five feet in length within the lot, parallel with and at a maximum distance from the front lot line (see Figure 2).

Figure 2.
NORTHERN LOT LINE



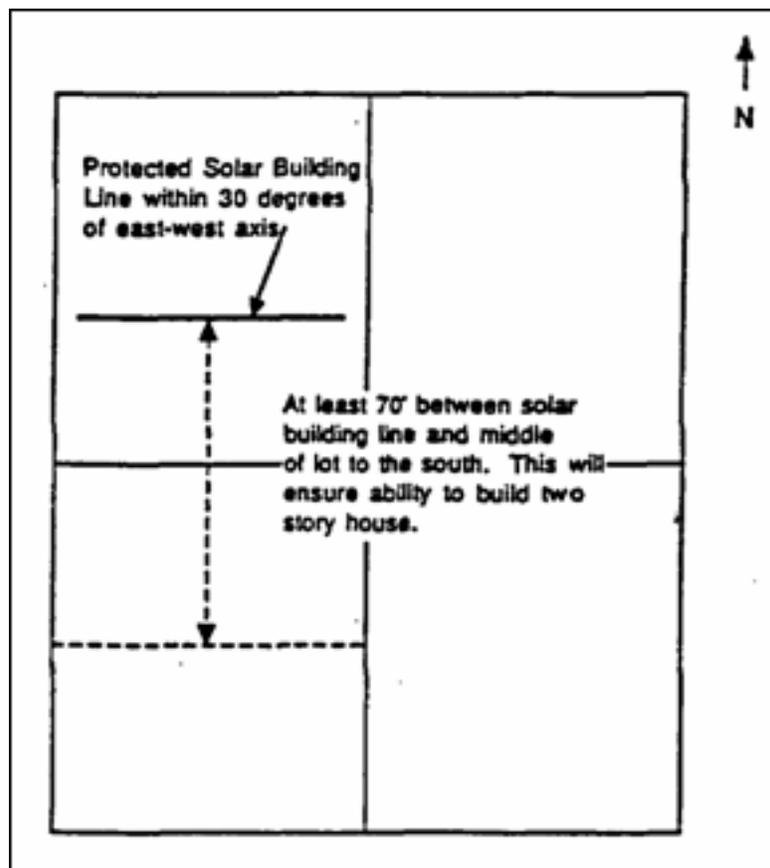
“North-south dimension” means the length of a line beginning at the midpoint of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 3).

Figure 3.
NORTH-SOUTH DIMENSION OF THE LOT



“Protected solar building line” means a line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or nonexempt trees (see Figure 4).

Figure 4.
SOLAR LOT OPTION 2: PROTECTED SOLAR BUILDING LINE



“Shade” means a shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.

“Shade point” means the part of a structure or nonexempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of three feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If the shade point is located at the north end of the ridgeline of a structure oriented within forty-five degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by three feet. If a structure has a roof oriented within forty-five degrees of a true east-west line with a pitch that is flatter than five feet (vertical) in twelve feet (horizontal) the shade point will be the eaves of the roof. If such a roof has a pitch that is five feet in twelve feet or steeper, the shade point will be the peak of the roof (see Figures 5 and 6).

Figure 5.
HEIGHT OF THE SHADE POINT OF THE STRUCTURE

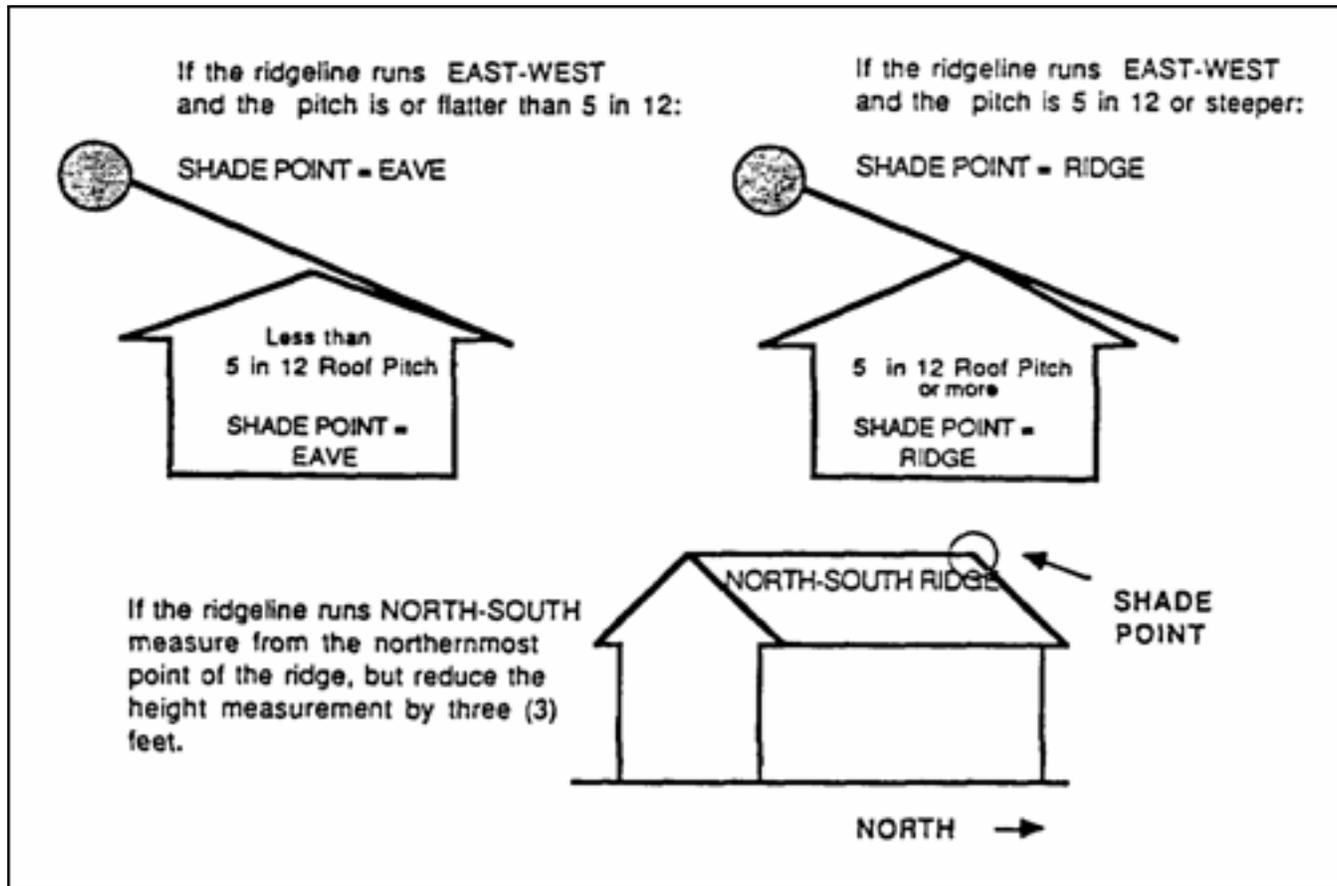
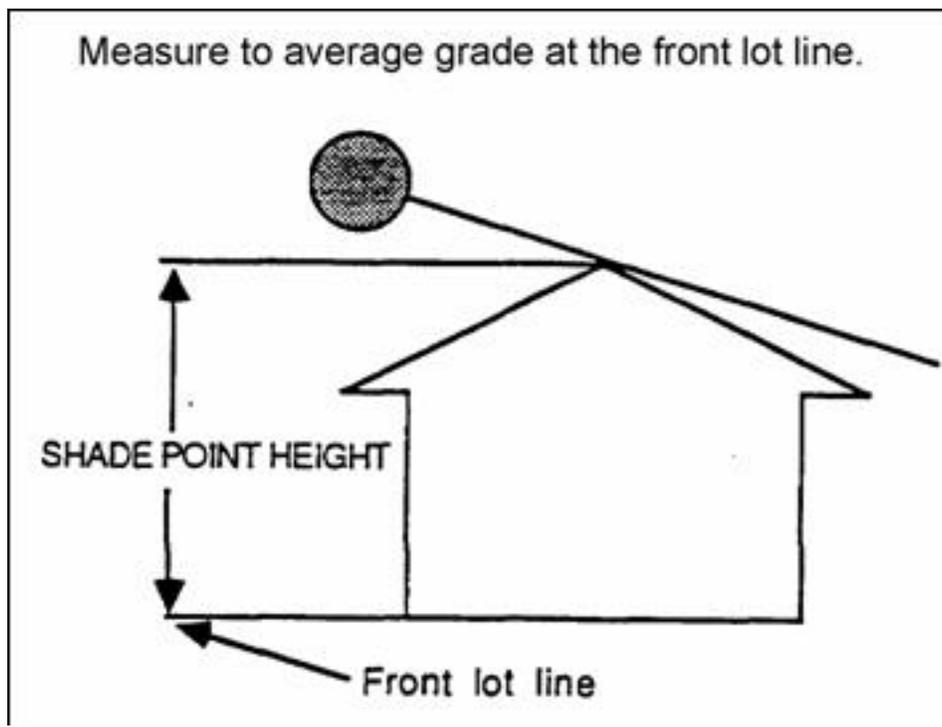
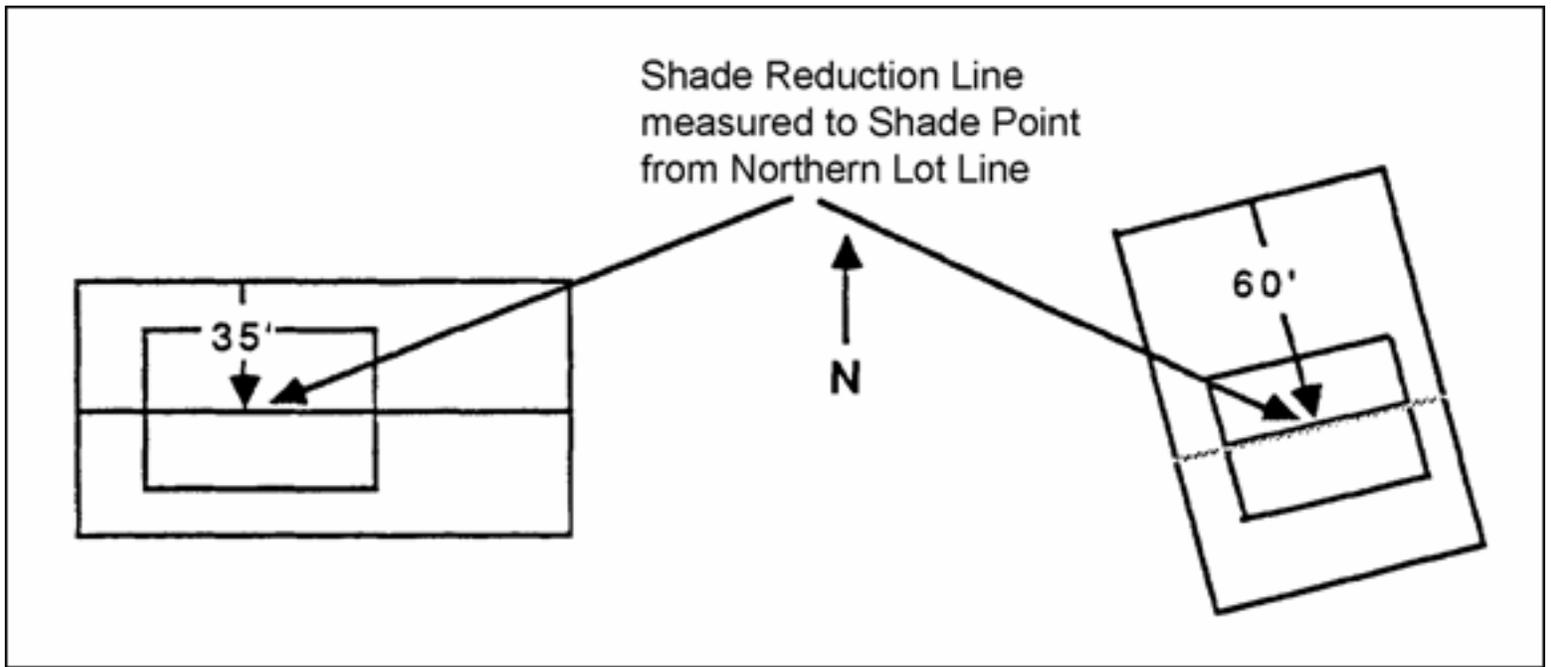


Figure 6.
SHADE POINT HEIGHT



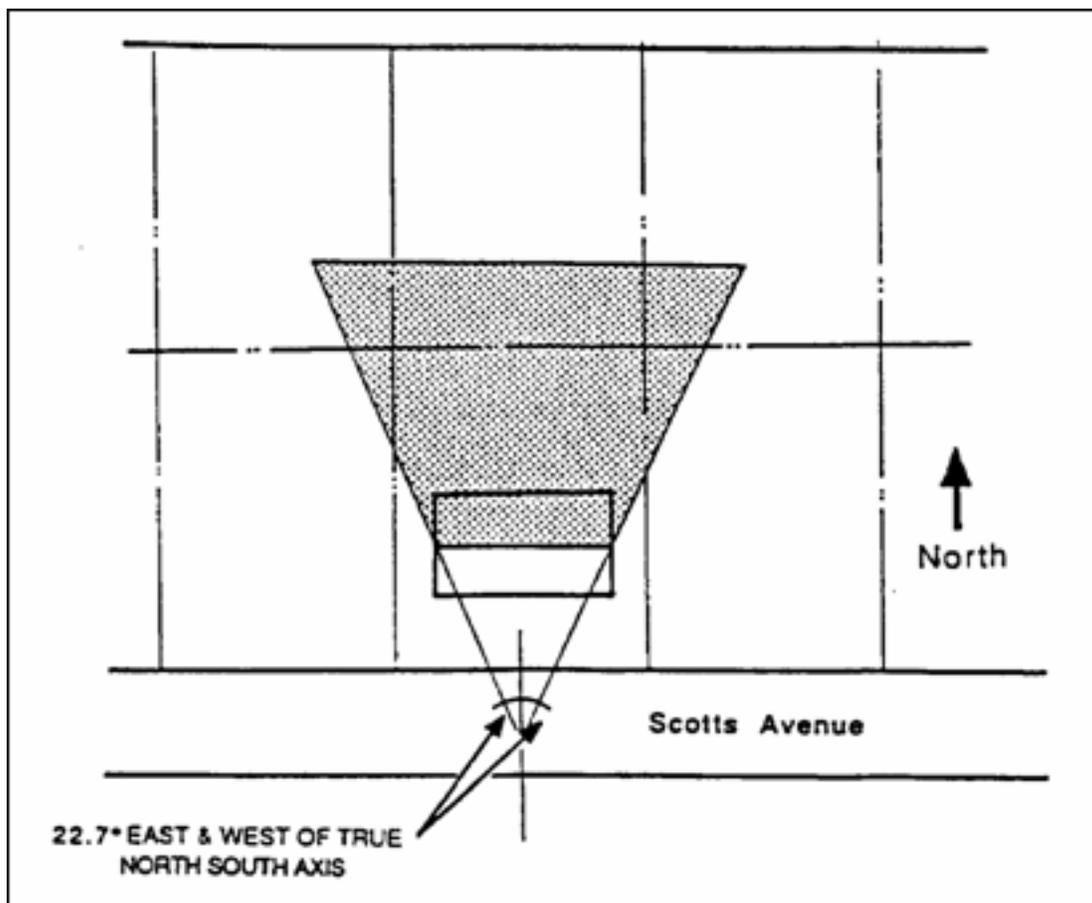
“Shade reduction line” means a line drawn parallel to the northern lot line that intersects the shade point (see Figure 7).

Figure 7.
SHADE REDUCTION LINE



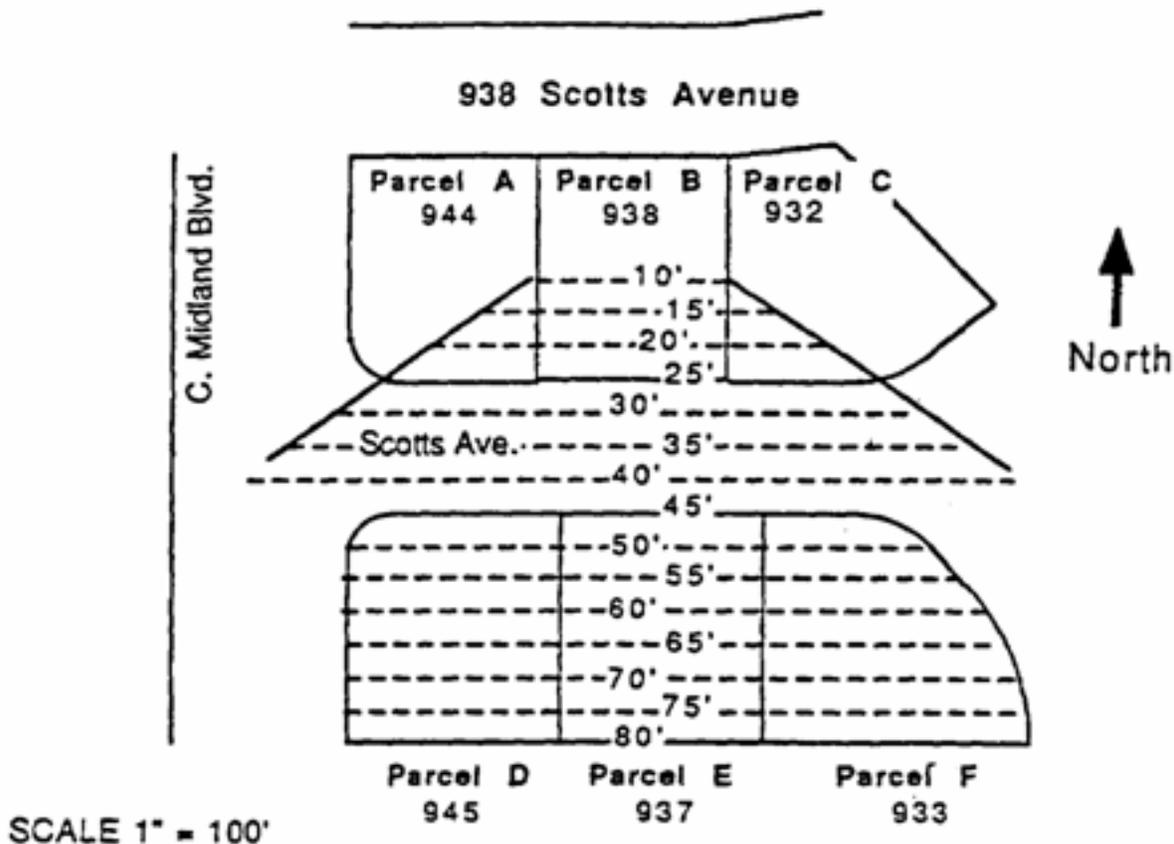
“Shadow pattern” means a graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see Figure 8).

Figure 8.
SHADOW PATTERN



“Solar access height limit” means a series of contour lines establishing the maximum permitted height for nonexempt vegetation on lots affected by a solar access permit (see Figure 9).

Figure 9.
SOLAR ACCESS HEIGHT LIMIT



“Solar access permit” means a document issued by the city that describes the maximum height that nonexempt vegetation is allowed to grow on lots to which a solar access permit applies.

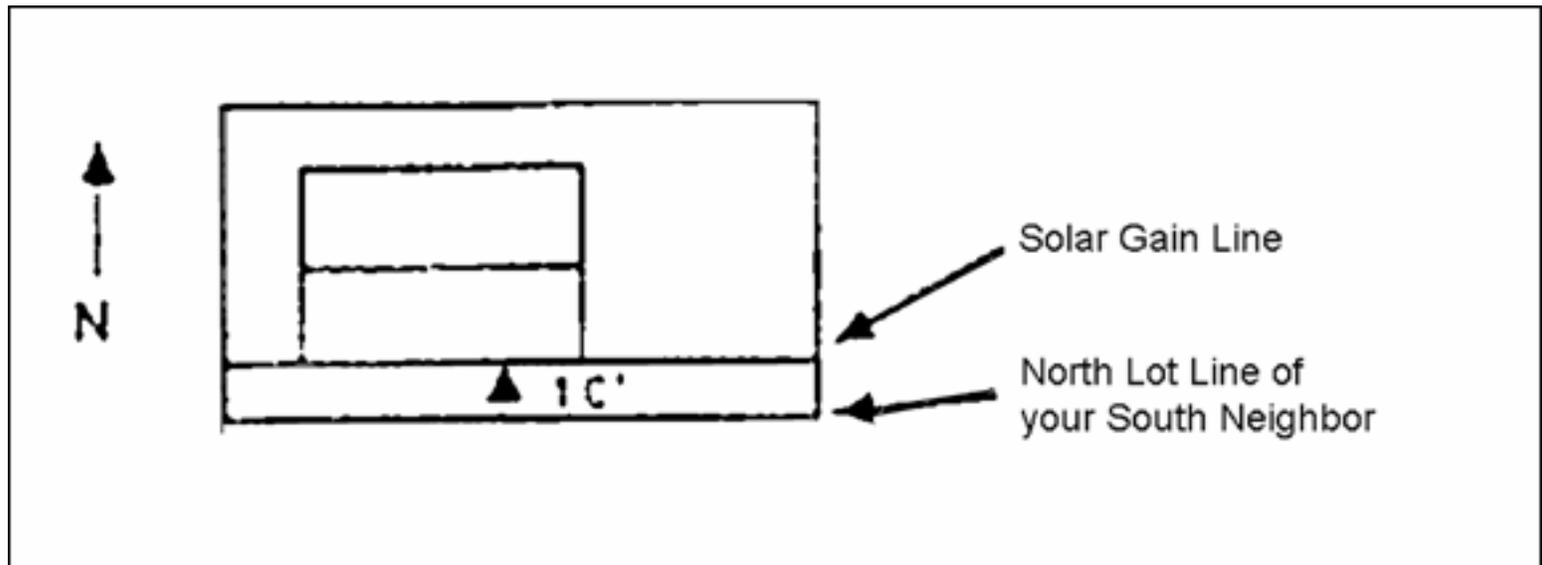
“Solar feature” means a device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water and generating electricity. Examples of a solar feature include a window that contains at least twenty square feet of glazing oriented within forty-five degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this section.

“Solar-friendly tree” means a tree which the director has determined does not cause significant winter shade due to foliar period and branch structure. The director shall maintain a list of generally recognized solar-friendly trees.

“Solar gain line” means a line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot

(see Figure 10).

Figure 10.
SOLAR GAIN LINE



“South or south-facing” means true south, or twenty degrees east of magnetic south.

“Sun chart” means one or more photographs that plot the position of the sun between 10:30 a.m. and 1:30 p.m. on January 21st, prepared pursuant to guidelines issued by the director. The sun chart shall show the southern skyline through a transparent grid on which is imposed solar altitude for forty-five-degree and thirty-minute northern latitude in ten-degree increments and solar azimuth from true south in fifteen-degree increments.

“Undevelopable area” means an area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding twenty percent in a direction greater than forty-five degrees east and west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or manmade conditions, such as existing development which isolates a portion of the site and prevents its further development, setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement, or existence or absence of easements or access rights that prevent development of a given area. (Ord. 1712 (part), 1991)

19.1303 Solar access for new development.

19.1303.1 Purpose. The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

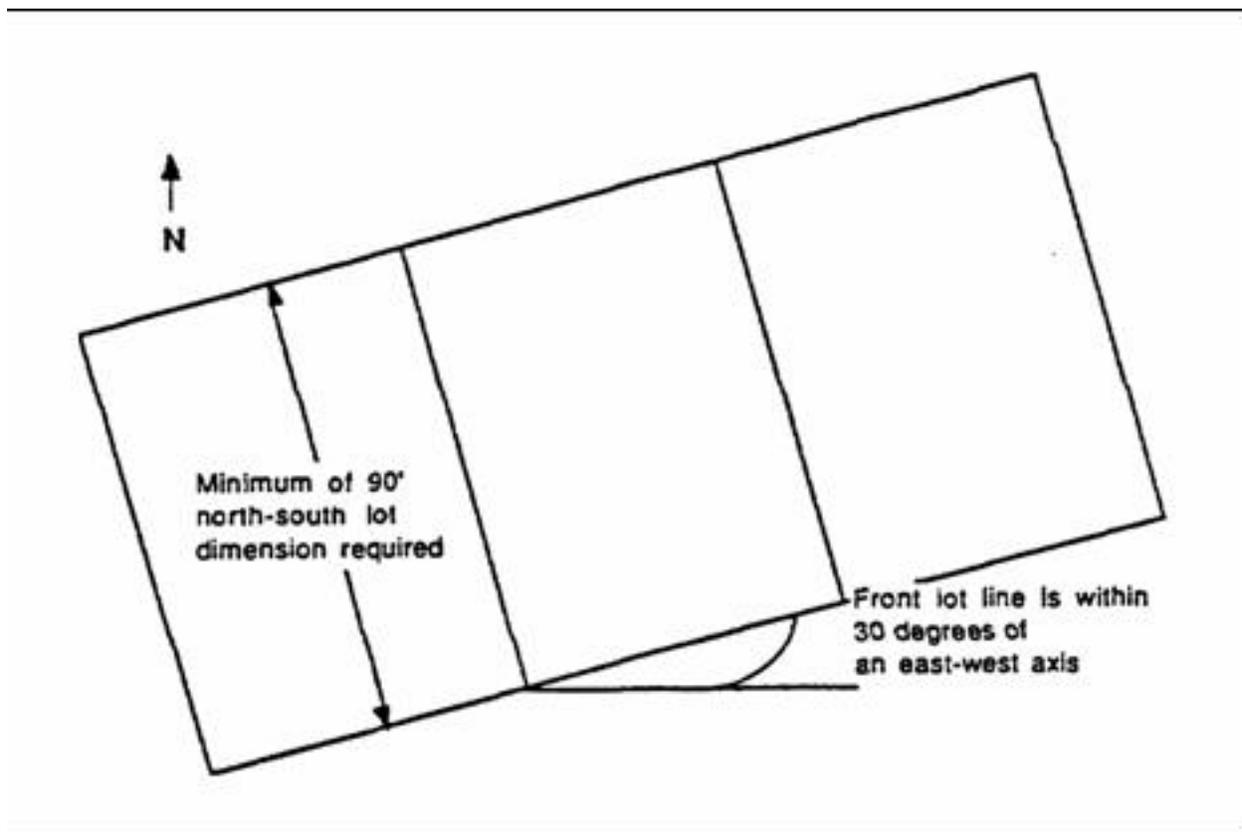
19.1303.2 Applicability. The solar design standards in subsection 19.1303.3 shall apply to applications for a development to create lots in single-family zones and for single-family detached dwellings in any zone, except to the extent the director finds that the applicant has shown one or more of the conditions listed in subsections 19.1303.4 and 19.1303.5 exist, and exemptions or adjustments provided for therein are warranted.

19.1303.3 Design Standard. At least eighty percent of the lots in a development subject to these provisions shall comply with one or more of the options in this subsection; provided a development may, but is not required to, use the options in subsections B or C below to comply with Section 19.1303.

A. Basic Requirement. A lot complies with subsection 19.1303.3 if it:

1. Has a north-south dimension of ninety feet or more; and
2. Has a front lot line that is oriented within thirty degrees of a true east-west axis (see Figure 11).

Figure 11.
SOLAR LOT OPTION 1: BASIC REQUIREMENTS



B. Protected Solar Building Line Option. In the alternative, a lot complies with subsection 19.1303.3 if a solar building line is used to protect solar access as follows:

1. A protected solar building line is designated on the plat or in documents recorded with the plat; and
2. The protected solar building line is oriented within thirty degrees of a true east-west axis; and
3. There are least seventy feet between the protected solar building line and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and
4. There are least forty-five feet between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least eighty percent of their south-facing wall will not be shaded by structures or nonexempt vegetation (see Figure 4).

C. Performance Option. In the alternative, a lot complies with subsection 19.1303.3 if:

1. Habitable structures built on that lot will have their long axis oriented within thirty degrees of a true east-west axis, and at least eighty percent of their ground floor south wall will be protected from shade by structures and nonexempt trees using appropriate deed restrictions; or
2. Habitable structures built on that lot will orient at least thirty-two percent of their glazing, and at least five hundred square feet of their roof area, to face within thirty degrees east or west of true south, and that glazing and roof area are protected from shade by structures and nonexempt trees using

appropriate deed restrictions.

19.1303.4 Exemptions from Design Standard. A development is exempt from subsection 19.1303.3 if the director finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from subsection 19.1303.3 to the extent the director finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with subsection 19.1303.3.

A. Slopes. The site, or a portion of the site for which the exemption is sought, is sloped twenty percent or more in a direction greater than forty-five degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.

B. Off-Site Shade. The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as, but not limited to, structures, topography, or nonexempt vegetation, which will remain after development occurs on the site from which the shade is originating.

1. Shade from an existing or approved off-site dwelling in a single-family residential zone, and from topographic features, is assumed to remain after development of the site.

2. Shade from an off-site structure in a zone other than a single-family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.

3. Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; they are part of a developed area, public park, or legally reserved open space; they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.

4. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is filed.

C. On-Site Shade. The site, or a portion of the site for which the exemption is requested:

1. Is within the shadow pattern of on-site features such as, but not limited to, structures and topography which will remain after the development occurs; or

2. Contains nonexempt trees at least thirty feet tall and more than six inches in diameter measured four feet above the ground, which have a crown cover over at least eighty percent of the site or the relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least fifty percent of the crown cover that causes the shade that warrants the exemption. The

applicant shall file a note on the plat or other documents in the office of the county recorder binding the applicant to comply with this requirement. The city shall be made a party to any covenant or restriction created to enforce any provision of this section. The covenant or restriction shall not be amended without written city approval.

D. Completion of Phased Subdivision. The site is part of a phased subdivision none of which was subject to Section 19.1303, and the site and the remainder of the unplatted portion of the phased subdivision contains no more than twenty percent of the lots in all phases of the subdivision.

19.1303.5 Adjustment to Design Standard. The director shall reduce the percentage of lots that must comply with subsection 19.1303.3, to the minimum extent necessary, if he or she finds the applicant has shown it would cause or is subject to one or more of the following conditions.

A. Adverse Impacts on Density, Cost or Amenities.

1. If the design standard in subsection 19.1303.3A is applied, either the resulting density is less than that proposed, or on-site site development costs (e.g., grading, water, storm drainage and sanitary systems, and road) and solar related off-site site development costs are at least five percent more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with subsection 19.1303.3A would reduce density or increase costs per lot in this manner. The applicant shall show which if any of these or other similar site characteristics apply in an application for a development;

a. The portion of the site for which the adjustment is sought has a natural grade that is sloped ten percent or more and is oriented greater than forty-five degrees east or west of true south, based on a topographic survey of the site by a professional land surveyor, USGS, or other officially recognized topographic information;

b. There is a significant natural feature on the site, identified as such in the comprehensive plan or development ordinance, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed;

c. Existing road patterns must be continued through the site or must terminate on the site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access;

d. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

2. If the design standard in subsection 19.1303.3A applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with subsection 19.1303.3A is relevant to whether a significant development amenity is lost or impaired.

B. Impacts of existing shade. The shadow pattern from nonexempt trees covers over at least eighty

percent of the lot and at least fifty percent of the shadow pattern will remain after development of the lot. The applicant can show the shadow pattern using a scaled survey of nonexempt trees on the site or using an aerial photograph.

1. Shade from nonexempt trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.

2. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files, in the office of the county recorder, a covenant binding the applicant to retain the trees causing the shade on the affected lots.

19.1303.6 Protection from Future Shade. Structures and nonexempt vegetation must comply with Section 19.1304 on all lots in a development subject to Section 19.1303, including lots for which exemptions or adjustments to Section 19.1303 have been granted.

B. The applicant shall file a note on the plat or other documents in the office of the county recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in subsection 19.1303.6. The city shall be made a party of any covenant or restriction created to enforce any provision of this section. The covenant or restriction shall not be amended without written city approval.

19.1303.7 Application. An application for approval of a development subject to this section shall include the following:

A. Maps and text sufficient to show the development complies with the solar design standard of subsection 19.1303.3, except for lots for which an exemption or adjustment from subsection 19.1303.3 is requested, including at least:

1. The north-south lot dimension and front lot line orientation of each proposed lot;
2. Protected solar building lines and relevant building site restrictions, if applicable;
3. For the purpose of identifying trees exempt from subsection 19.1303.6, a map showing existing trees at least thirty feet tall and over six inches diameter at a point four feet above grade, indicating their height, diameter, and species, and stating that they are to be retained and are exempt; and
4. Copies of all private restrictions relating to solar access.

B. If an exemption or adjustment to subsection 19.1303.3 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in subsection 19.1303.4 or 19.1303.5, respectively.

19.1303.8 Process for Approval. Requirements for meeting this section shall be processed simultaneously with other application requirements as provided by this title, or in conjunction with

building permit requests. The city's decision to grant or deny approval is intended to be ministerial. (Ord. 1712 (part), 1991)

19.1304 Solar balance point.

19.1304.1 Purpose. The purposes of this section are to promote the use of solar energy, to minimize shading of structures by structures and accessory structures, and, where applicable, to minimize shading of structures by trees. Decisions related to this section are intended to be ministerial.

19.1304.2 Applicability. This section applies to an application for a building permit for all structures in single-family zones and all single-family detached structures in any zone, except to the extent the director finds the applicant has shown that one or more of the conditions listed in subsections 19.1304.5 or 19.1304.6 exists, and exemptions or adjustments are warranted. In addition, nonexempt vegetation planted on lots subject to the provisions of subsection 19.1303.6 shall comply with the shade point height standards as provided in subsections 19.1304.5 and 19.1304.6 below.

19.1304.3 Solar Site Plan Required. An applicant for a building permit for a structure subject to this section shall submit a site plan that shows:

- A. The maximum shade point height allowed under Section 19.1304.4;
- B. If the maximum shade point height is adjusted pursuant to subsection 19.1304.4(A)(2), the average elevation of the rear property line;
- C. The location of the shade point, its height relative to the average elevation of the front lot line or the elevation at the midpoint of the front lot line, and its orientation relative to true south; and, if applicable,
- D. the solar balance point for the structure as provided in subsection 19.1304.8.

19.1304.4 Maximum Shade Point Height Standard. The height of the shade point shall comply with either subsection A or B below.

A. Basic Requirement.

1. The height of the shade point shall be less than or equal to the height specified in Table A or computed using the following formula. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If necessary, interpolate between the five-foot dimensions listed in Table A.

$$H = \frac{(2 \times SRT) \cdot (N + 130)}{5}$$

- Where:
- H** = The maximum allowed height of the shade point (see Figures 5 and 6);
- SRL** = Shade reduction line (the distance between the shade point and the northern lot line) (see Figure 7); and
- N** = The north-south lot dimension, provided that a north-south lot dimension more than ninety feet shall use a value of ninety feet for this section.

2. Provided, the maximum allowed height of the shade point may be increased one foot above the amount calculated using the formula or Table A for each foot that the average grade at the rear property line exceeds the average grade at the front property line.

Table A													
MAXIMUM PERMITTED SHADE POINT HEIGHT (IN FEET)													
Distance to Shade Reduction Line from Northern Lot Line (In Feet)	North-South Lot Dimension (In Feet)												
	100+	95	90	85	80	75	70	65	60	55	50	45	40
70	40	40	40	41	42	43	44						

65	38	38	38	39	40	41	42	43					
60	36	36	36	37	38	39	40	41	42				
55	34	34	34	35	36	37	38	39	40	41			
50	32	32	32	33	34	35	36	37	38	39	40		
45	30	30	30	31	32	33	34	35	36	37	38	39	
40	28	28	28	29	30	31	32	33	34	35	36	37	38
35	26	26	26	27	28	29	30	31	32	33	34	35	36
30	24	24	24	25	26	27	28	29	30	31	32	33	34
25	22	22	22	23	24	25	26	27	28	29	30	31	32
20	20	20	20	21	22	23	24	25	26	27	28	29	30
15	18	18	18	19	20	21	22	23	24	25	26	27	28
10	16	16	16	17	18	19	20	21	22	23	24	25	26
5	14	14	14	15	16	17	18	19	20	21	22	23	24

B. Performance Option. The proposed structure, or applicable nonexempt vegetation, will shade not more than twenty percent of the south-facing glazing of existing habitable structure(s), or, where applicable, the proposed structure or nonexempt vegetation comply with subsection 19.1303.3B or 19.1303.3C. If subsection 19.1303.3B, Protected solar building line, is used, nonexempt trees and the shade point of structures shall be set back from the protected solar building line 2.5 feet for every one foot of height of the structure or of the mature height of nonexempt vegetation over two feet.

19.1304.5 Exemption from the Maximum Shade Point Height Standard. The director shall exempt a proposed structure or nonexempt vegetation from subsection 19.1303.3 and 19.1303.4 if the applicant shows that one or more of the conditions in this subsection exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, sun charts or photographs, or other substantial evidence submitted by the applicant.

A. Exempt Lot. When created, the lot was subject to subsection 19.1303.3 and was not subject to the provisions of subsection 19.1303.6.

B. Preexisting Shade. The structure or applicable nonexempt vegetation will shade an area that is shaded by one or more of the following:

1. An existing or approved building or structure;
2. A topographic feature;

3. A nonexempt tree that will remain after development of the site. It is assumed a tree will remain after development if it: is situated in a building setback required by local law; is part of a developed area or landscaping required by local law, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

C. Slope. The site has an average slope that exceeds twenty percent in a direction greater than forty-five degrees east or west of true south based on a topographic survey by a licensed professional land surveyor, USGS or other officially recognized topographic information.

D. Insignificant Benefit. The proposed structure or nonexempt vegetation shades one or more of the following:

1. An undevelopable area;
2. The wall of an unheated space, such as a typical garage;
3. Less than twenty square feet of south-facing glazing;
4. An undeveloped lot, other than a lot that was subject to Section 19.1303, where:
 - a. There are at least four single-family detached or attached homes within two hundred fifty feet of the lot within the same subdivision or a phase of the subdivision; and
 - b. A majority of the homes identified in subsection (D)(4)(a) above have an average of less than twenty square feet of south-facing glazing.

E. Public Improvement. The proposed structure is a publicly owned improvement.

19.1304.6 Adjustments to the Maximum Shade Point Height Standard. The director shall increase the maximum permitted height of the shade point determined using subsection 19.1304.4 to the extent they find the applicant has shown one or more of the following conditions exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, sun charts or photographs, or other substantial evidence submitted by the applicant.

A. Physical Conditions. Physical conditions preclude development of the site in a manner that complies with subsection 19.1304.4, due to such things as a lot size less than three thousand square feet, unstable or wet soils, or a drainage way, public or private easement, or right-of-way.

B. Conflict Between the Maximum Shade Point Height and Allowed Shade on the Solar Feature Standards. A proposed structure may be sited to meet the solar balance point standard described in subsection 19.1304.8, or be sited as near to the solar balance point as allowed by subsection 19.1304.8, if:

1. When the proposed structure is sited to meet the maximum shade point height standard determined using subsection 19.1304.4, its solar feature will potentially be shaded as determined using subsection 19.1304.7; and

2. The application includes a form provided for that purpose by the city that:
 - a. Releases the applicant from complying with subsection 19.1304.4 and agrees that the proposed structure may shade an area otherwise protected by subsection 19.1304.4;
 - b. Releases the city from liability for damages resulting from the adjustment; and
 - c. Is signed by the owner(s) of the properties that would be shaded by the proposed structure more than allowed by the provisions of subsection 19.1304.4.
3. Before the city issues a permit for a proposed structure for which an adjustment has been granted pursuant to this subsection B, the applicant shall file the form, provided for in subsection (B)(2) above, in the office of the county recorder with the deeds to the affected properties.

19.1304.7 Analysis of Allowed Shade on Solar Feature.

- A. An applicant may, but is not required to, perform the calculations in or comply with the standards of this section.
- B. Applicants are encouraged to design and site a proposed habitable structure so that the lowest height of any solar feature(s) will not be shaded by buildings or nonexempt trees on lot(s) to the south. The applicant should complete the following calculation procedure to determine if solar feature(s) of the proposed structure will be shaded. To start, the applicant should choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:
 1. Existing structure(s) or nonexempt trees; or
 2. The maximum shade that can be cast from future buildings or nonexempt trees, based on Table C.If the lot(s) to the south can be further divided, then the north-south dimension is assumed to be the minimum lot width required for a new lot in that zone.
- C. The height of the lowest point of any solar feature of the proposed structure is calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.
- D. The applicant can determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in subsection 19.1304.7B by using the following formula or Table B.

$$SFSH = SH - (SGL \div 2.5)$$

Where: SFSH = The allowed shadow height on the solar feature (see Figure 12);

SH = The height of the shade at the northern lot line of lot(s) to the south as determined in

subsection B above; and

SGL = The solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south) (see Figure 10).

Figure 12.
SOLAR BALANCE POINT STANDARD

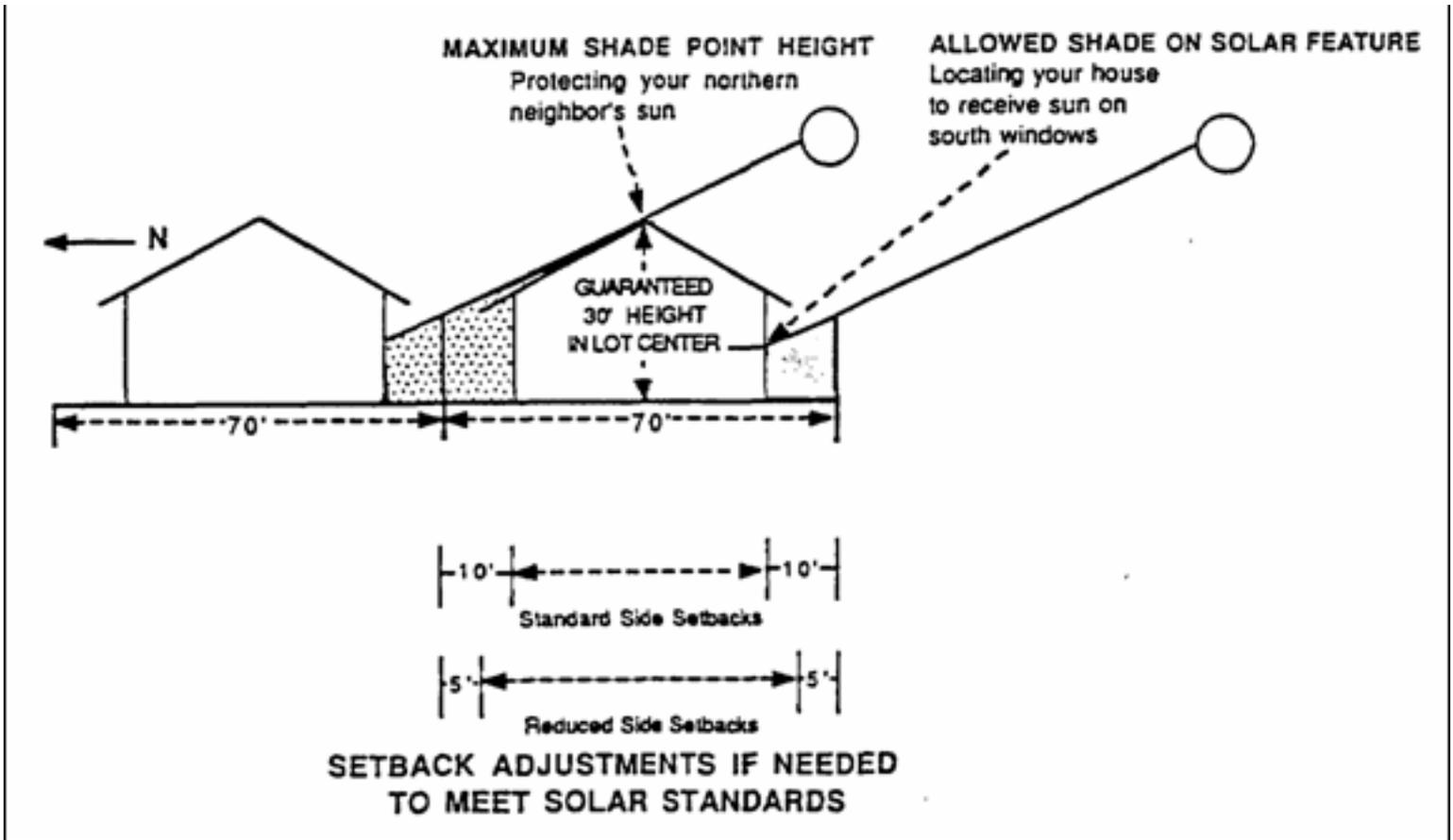


Table B											
MAXIMUM PERMITTED HEIGHT OF SHADOW AT SOLAR FEATURE (IN FEET)											
Distance from Solar Gain Line to Lot Line (In Feet)	Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (In Feet)										
	22	21	20	19	18	17	16	15	14	13	12
50	2	1									

45	4	3	2	1								
40	6	5	4	3	2	1						
35	8	7	6	5	4	3	2	1				
30	10	9	8	7	6	5	4	3	2	1		
25	12	11	10	9	8	7	6	5	4	3	2	
20	14	13	12	11	10	9	8	7	6	5	4	
15	16	15	14	13	12	11	10	9	8	7	6	
10	18	17	16	15	14	13	12	11	10	9	8	
5	20	19	18	17	16	15	14	13	12	11	10	

Table C may be used to determine “SH” in the above formula.

Table C													
North-south lot dimension of adjacent lot (s) to the south	100	95	90	85	80	75	70	65	60	55	50	45	40
Allowed shade height at the north property line of adjacent lot(s) to south	12	12	12	13	14	15	16	17	18	19	20	21	22

E. If allowed shade height on the solar feature calculated in subsection D above is higher than the lowest height of the solar feature calculated in subsection C above, the applicant shall be encouraged to consider changes to the house design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

19.1304.8 Solar Balance Point. If a structure does not comply with maximum shade point height standard in subsection 19.1304.4 and the allowed shade on a solar feature standard in subsection 19.1304.7, then the solar balance point of the lot shall be calculated. The solar balance point is the point on the lot where a structure would be the same from complying with both of these standards.

19.1304.9 Yard Setback Adjustment. The city shall grant an adjustment to the side, front, and/or rear yard setback requirement(s) by up to fifty percent if necessary to build a proposed structure so it

complies with either the shade point height standard in subsection 19.1304.4, the allowed shade on a solar feature standard in subsection 19.1304.7, or the solar balance point standard in subsection 19.1304.8. This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of Chapter 19.1300.

A. R-1, R-2, R-2.5, R-3, R-5, and R-7 Zones.

1. A front yard setback may be reduced to not less than ten feet.
2. A rear yard setback may be reduced to not less than ten feet.
3. A side yard setback may be reduced to not less than three feet.

B. R-10 Zone.

1. A front yard setback may be reduced to not less than fifteen feet.
2. A rear yard setback may be reduced to not less than fifteen feet.
3. A side yard setback may be reduced to not less than five feet.

19.1304.10 Application and Review Process. An application for a building permit shall include the information necessary to meet the provisions of subsection 19.1304.4, and shall be processed pursuant to subsection 19.1011.1 of this title. The building official shall refer the plan to the director for review and approval prior to issuing a building permit, or the director may delegate this responsibility for review and approval to the building official. (Ord. 1712 (part), 1991)

[19.1305 Solar access permit.](#)

19.1305.1 Purpose. The purpose of this section is to protect solar access to solar features on lots designated or used for a single-family detached dwelling under some circumstances. It authorizes owners of such lots to apply for a certification permit that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee's site.

19.1305.2 Applicability. An owner or contract purchaser of property may apply for and/or be subject to a solar access permit for a solar feature if that property is in a single-family zone or is (or will be) developed with a single-family dwelling. The City's decision to grant or deny a solar access permit is intended to be ministerial.

19.1305.3 Approval Standards for a Solar Access Permit. The director shall approve an application for a solar access permit if the applicant shows:

- A. The information contained in the application is complete and accurate; and
- B. Nonexempt vegetation on the applicant's property does not shade the solar feature, as demonstrated by the site plan submitted and the specific information required in subsection 19.1305.5.

19.1305.4 Duties Created by Solar Access Permit.

A. A party to whom the city grants a solar access permit shall:

1. Record the permit, legal descriptions of the properties affected by the permit, the solar access height limit, and the site plan required in subsection 19.1305.5C, with such modifications as required by the director, in the office of the county recorder with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and shall pay the fees for such filing;
2. Install the solar feature in a timely manner as provided in subsection 19.1305.8; and
3. Maintain nonexempt vegetation on the site so it does not shade the solar feature.

B. An owner of property burdened by a solar access permit shall be responsible and pay all costs for keeping nonexempt vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the site plan required in subsection 19.1305.5C, vegetation an owner shows was in the ground on the date an application for a solar access permit is filed, and solar-friendly vegetation are exempt from the solar access permit.

19.1305.5 Application Contents. An application for a solar access permit shall contain the following information:

A. A legal description of the applicant's lot and a legal description, owner's names, and owner's addresses for lots all or a portion of which are within one hundred fifty feet of the applicant's lot and fifty-four degrees east and west of true south, measured from the east and west corners of the applicant's south lot line. The records of the county assessor's office shall be used to determine who owns property for purposes of an application. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may be affected;

B. A scaled plan of the applicant's property showing:

1. Vegetation in the ground as of the date of the application if, when mature, that vegetation could shade the solar feature, and
2. The approximate height above grade of the solar feature, its location, and its orientation relative to true south;

C. A scaled plan of the properties on the list, required in subsection A above, showing:

1. Their approximate dimensions, and
2. The approximate location of all existing vegetation on each property that could shade the solar feature(s) on the applicant's property;

D. For each affected lot, the requested solar access height limit. The solar access height limit is a series of contour lines establishing the maximum permitted height for nonexempt vegetation on lots affected by a solar access permit (see Figure 9). The contour lines begin at the bottom edge of a solar feature for which a permit is requested and rise in five-foot increments at an angle to the south not less

than 21.3 degrees from the horizon and extend not more than fifty-four degrees east and west of true south. Notwithstanding the preceding, the solar access height limit at the northern lot line of any lot burdened by a solar access permit shall allow nonexempt vegetation on that lot whose height causes no more shade on the benefited property than could be caused by a structure that complies with the solar balance point provisions for existing lots;

E. A fee as required by the city;

F. If available, a statement signed by the owner(s) of some or all of the property(ies) to which the permit will apply if granted, verifying that the vegetation shown on the plan, submitted pursuant to subsection C above, accurately represents vegetation in the ground on the date of the application. The city shall provide a form for that purpose. The signed statements provided for herein are permitted but not required for a complete application.

19.1305.6 Application Review Process.

A. Unless waived by the director, prior to filing an application for a solar access permit, an applicant or applicant's representative shall pay the fee required by subsection 19.1305.5E and shall meet with the director or designee to discuss the proposal and the requirements for an application. If a meeting is held, the director shall convey a written summary of the meeting to the applicant by mail within five calendar days of the meeting.

B. After the preapplication meeting is held or waived, the applicant may file an application containing the information required in subsection 19.1305.5 above.

C. Within seven calendar days after an application is filed, the director or designee shall determine whether the application is complete and, if it is not complete, notify the applicant in writing specifying what is required to make it complete.

D. Within fourteen calendar days after the director decides an application for a solar access permit is complete, the director or designee shall issue a written decision tentatively approving or denying the request, together with reasons therefor, based on the standards of subsection 19.1305.3.

1. If the tentative decision is to deny the permit, the director shall mail a copy of the decision to the applicant.

2. If the tentative decision is to approve the permit, and the owners of all affected properties did verify the accuracy of the plot plan as authorized under subsection 19.1305.5F, the director shall mail a copy of the decision to the applicant and affected parties by certified mail, return receipt requested.

3. If the tentative decision is to approve the permit, and the owners of all affected properties did not verify the accuracy of the plot plan as permitted under subsection 19.1305.5F, the director shall send a copy of the tentative decision by certified mail, return receipt requested, to the applicant and to the owners of affected properties who did not sign the verification statement, pursuant to subsection 19.1305.5F. If the director determines that the owners of a given property affected by the permit are not

the occupants of that property, then the director also shall send a copy of the notice to the occupants of such property.

a. The notice sent to the applicant shall include a sign that says a solar access permit for the property has been tentatively approved, and that informs readers where to obtain more information about it. The applicant shall be instructed to conspicuously post the sign so it is visible from right-of-way adjoining the property, and to sign and return a form provided by the director certifying that the sign was posted as provided herein not more than fourteen days after the tentative decision was mailed.

b. The notice shall include the plot plans required in subsections 19.1305.5B and C above, the proposed solar access height limits, and duties created by the permit.

c. The notice shall request recipients to verify that the plot plan shows all nonexempt vegetation on the recipient's property, and to send the director comments in writing within fourteen calendar days after the tentative decision is mailed if the recipient believes the applicant's plot plan is inaccurate.

4. Within twenty-eight days after notice of a tentative decision is mailed to affected parties, the director shall consider responses received from affected parties and/or an inspection of the site, modify the plot plan and the permit to be consistent with the accurate information, and issue a final decision. The director shall send a copy of the permit and solar access height limits to the owners of each property affected by the permit by certified mail, return receipt requested.

E. If the application is approved, and before the permit is effective, the applicant shall record the permit, associated solar access height limits, legal descriptions for the affected properties, and the site plan required in subsection 19.1305.5C, with such modifications as required by the director, in the office of the county recorder with the deeds to the properties affected by it.

19.1305.7 Permit Enforcement Process.

A. Enforcement Request. A solar access permittee may request the city to enforce the solar access permit by providing the following information to the director:

1. A copy of the solar access permit and the plot plans submitted with the permit;
2. The legal description of the lot(s) on which alleged nonexempt vegetation is situated, the address of the owner(s) of that property, and a scaled site plan of the lot(s) showing the nonexempt vegetation; and
3. Evidence the vegetation violates the solar access permit, such as a sun chart, photograph, shadow pattern, and/or photographs.

B. Enforcement Process. If the director determines the request for enforcement is complete, they shall initiate an enforcement action pursuant to applicable provisions of the Milwaukie Municipal Code. The director shall not enforce the permit provisions where a property owner can show that vegetation was in the ground on the date the permit application was filed with the city.

19.1305.8 Expiration and Extension of a Solar Access Permit.

A. Expiration. Every permit issued by the director under the provisions of this section shall expire if the construction of the solar feature protected by such permit is not commenced within one hundred eighty days from the date of such permit, or if the construction of the solar feature protected by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one year. If the permittee does not show construction of the solar feature will be started within one hundred eighty days of the date of the permit or the extension, or if the solar feature is removed, the director shall terminate the permit by recording a notice of expiration in the office of the county recorder with the deeds to the affected properties.

B. Extension. Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence work under that permit. The permittee shall state reasons that can be deemed to be good and satisfactory by the director. The director may extend the time for action by the permittee for a period not exceeding one hundred eighty days, upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. (Ord. 1712 (part), 1991)

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Chapter 19.1400 TRANSPORTATION PLANNING, DESIGN STANDARDS, AND PROCEDURES*

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Chapter 19.1400 TRANSPORTATION PLANNING, DESIGN STANDARDS, AND PROCEDURES***19.1401 Purpose.**

The purposes of this Chapter include the following:

- A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional and state transportation system plans.
- B. Implement performance measures to protect the functional classification, capacity and level of service of transportation facilities.
- C. Assure that new development provides transportation improvements in rough proportion to identified impacts of the development.
- D. Assure that transportation improvements are designed and connected to accommodate multiple modes of travel, including pedestrian, bicycle, transit and auto. (Ord. 1893 (part), 2001)

19.1402 Administration.

- A. The Planning Director shall administer provisions of this chapter that apply to property excluding public rights-of-way. The City Engineer shall administer provisions that apply to public rights-of-way.
- B. The City Engineer shall prepare and administer a Transportation Design Manual including the following subject to any limitations of this Code:
 1. Design standards for transportation facilities located in public rights-of-way.
 2. Policies, programs, or procedures related to neighborhood traffic management, school trip safety, capital improvements planning, and system development charges.
 3. Traffic impact analysis methods, procedures, and submission requirements that implement Section 19.1408-Transportation Impact Analysis.
 4. Facility maintenance policies and procedures.
 5. Other provisions or requirements as needed or desired to manage the City's transportation system and its components.

The manual shall be adopted by resolution of the City Council.
- C. Provisions of this Chapter shall be coordinated with Title 12-Street, Sidewalks, and Public Places; Chapter 15.32-Public Facilities Improvements; Chapter 15.36 Public Works Standards; Chapter 13.28-Capital Improvements; and Chapter 13.30 Reimbursement Districts. Any conflict between this Chapter and another shall be resolved by administrative determination of the City Engineer and Planning Director as applicable.
- D. The City shall implement a system to collect and administer fees collected in lieu of constructing improvements required under provisions of this Title. (Ord. 1893 (part), 2001)

19.1403 Applicability.

- A. Chapter 19.1400 applies to the following forms of development, except as limited by subsection 19.1403.1 of this section: partitions, subdivisions, new construction, including single and multifamily residential, commercial, industrial, institutional, governmental, and other.

B. **Application Required.** All actions subject to this section require submission of an application for transportation review. Applications shall be reviewed in accordance with Section 19.1001.

19.1403.1 Limitations.

A. For all development other than partitions, subdivisions, and single family, new construction or substantial redevelopment, as defined in Section 19.103, is exempt from Section 19.1407.2, Adequacy Requirements, when the estimated value of the construction improvements is less than two hundred thousand dollars (\$200,000.00), and when a transportation impact study is not required. The two hundred thousand dollars (\$200,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.

B. New single-family residential development and substantial redevelopment of existing single-family structures are exempt from Section 19.1407.2, Adequacy Requirements, except for the following requirements when the value of improvements is less than ninety thousand dollars (\$90,000.00). The ninety thousand dollars (\$90,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter shall comply with the following provisions:

1. Section 19.1409.1(B), Required frontage;
2. Table 19.1409.2, Additional Setbacks in Major Streets;
3. Section 19.1409.2(B), Right-of-way dedication;
4. Section 19.1409.2(E), Vision clearance;
5. Section 19.1410.2, Public sidewalks; and
6. Section 19.1413, Access management.

C. **Development in the Downtown Zones.** Specific design standards and public area requirements have been adopted for the downtown zones; therefore, only the following provisions of Section 19.1400 shall apply in the downtown zones:

1. Section 19.1405.4, Notice and coordinated review.
2. Section 19.1408, Transportation impact analysis.
3. Section 19.1413, Access management. (Ord. 1907 (Attach. 2), 2002; Ord. 1893 (part), 2001)

19.1404 Exception, adjustment, or variance.

A. The criteria in this chapter reflect the need for flexibility in the application of transportation requirements and design standards to respond to unique site characteristics or hardship situations. Criteria are provided for different categories of exceptions and adjustments.

B. **Review Process.** All requests for adjustments and exceptions shall be processed in accordance with 19.1011.2-Type II-Administrative Review procedures concurrent with the application for land use approval.

C. **Adjustments.** The transportation facility design standards of Chapter 19.1400 and the Transportation Design Manual may be adjusted in accordance with Table 19.1409.3 and the criteria listed below. Transportation facility design standards apply only to improvements located within public rights-of-way. An adjustment to a design standard may be granted when the City Engineer finds it is consistent with the following, based upon professional judgement and accepted engineering practices:

1. In all cases the adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan;
2. The adjustment serves to protect significant features such as but not limited to trees, historic or other valued buildings, water resources, and the like where means to ensure continued protection of the resource are secured;
3. Strict compliance with the design standard will result in a potentially hazardous condition;

4. Strict compliance is deemed infeasible due to engineering limitations including connectivity to adjoining transportation and stormwater facilities; and/or

5. Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.

Cost of required improvements shall not be a basis for granting an adjustment.

D. Exceptions. The City Engineer may waive compliance with transportation facility design standards for improvements located in the right-of-way in the following cases:

1. An approved and funded capital improvement project that benefits the site is scheduled for construction within three (3) years of the land use approval;

2. The developer pays to the City a fee in lieu of construction costs for required site improvements and there will be no safety hazards as determined by the City Engineer; and/or

3. A local improvement district, which includes the development site, has been approved.

E. Variances. Requests for relief from any provision of this chapter or the roadway design manual that cannot be modified under 19.1404.C or 19.1404.D shall be reviewed under provisions of Chapter 19.700-Variance, Exceptions, and Home Improvements. (Ord. 1893 (part), 2001)

19.1405 Development Review Process.

A. The development review process used to confirm compliance with Chapter 19.1400 varies depending on the review procedure applicable to the proposed development.

19.1405.1 Type I Application Review.

A. Compliance Required. Applicants for Type I review shall demonstrate compliance with applicable approval criteria on forms provided by, and in accordance with procedures established by the planning director.

B. Type I review procedures are set forth in Section 19.1011.1. Type I review is used to determine compliance with applicable provisions of Chapter 19.1400 for the following unless a concurrent application will require Minor or Major Quasi-Judicial review, in which case the application will be processed under subsections 19.1011.3 and 19.1011.4 respectively:

1. Development of a new detached or attached single-family dwelling on an existing lot;

2. New construction or substantial redevelopment other than single-family, when the estimated value of the construction improvements is less than two hundred thousand dollars (\$200,000.00); and a transportation impact analysis is not required by Section 19.1408;

3. New construction or substantial redevelopment, other than single family, when the estimated value of the construction improvements exceeds two hundred thousand dollars (\$200,000.00); and as follows:

a. Frontage improvements that meet the design standards of Chapter 19.1400 are in place or will be provided prior to occupancy; and

b. A transportation impact study is not required pursuant to Section 19.1408.

The two hundred thousand dollars (\$200,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.

19.1405.2 Type II Review. Type II review procedures are set forth in Section 19.1011.2. Type II application review process shall be used to confirm compliance with Chapter 19.1400, unless a concurrent application will require Minor or Major Quasi-Judicial review, in which case the application will be processed under Sections 19.1011.3 or 19.1011.4 as applicable.

A. Type II review is required in the following situations:

1. When a transportation impact analysis is required by Section 19.1408, or
2. When an adjustment or exception to a transportation facility design standard of Chapter 19.1400 or the Transportation Design Manual is requested.

19.1405.3 Minor or Major Quasi-Judicial Review. Review procedures for Minor and Major Quasi-Judicial Review are set forth in Sections 19.1011.3 and 19.1011.4, respectively. A separate application and fee is required for the Chapter 19.1400 compliance review; however, the application will be consolidated and reviewed concurrent with the Minor or Major Quasi-Judicial Review.

19.1405.4 Notice and Coordinated Review.

A. Specific notice requirements. In addition to the general notice provisions set forth in Chapter 19.1100, the City shall provide notice of applications submitted for Chapter 19.1400 review as outlined below:

1. Notice to the Oregon Department of Transportation (ODOT) if the proposed development generates more than two hundred (200) vehicle trips per day, is within two hundred (200) feet of a State highway, or is within one thousand three hundred twenty (1,320) feet of a State highway interchange ramp.
2. Notice to Metro and Clackamas County if the proposed development is within two hundred (200) feet of a designated arterial or collector roadway, as identified in Figure 6.1 of the Milwaukie Comprehensive Plan.
3. Notice to Metro if the proposed development is within two hundred (200) feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.
4. Notice to Tri-Met if the proposed development (excluding single family development on an existing lot) is within two hundred (200) feet of an existing transit route.

B. Maps of areas subject to notice. The Transportation Design Manual includes maps that outline the areas subject to the specific notice requirements described above.

C. Coordinated review. The City shall coordinate the development application review and conditions with the agencies listed above. If there is a deadline for agency submittal of comments and suggested conditions, it shall be included in the original notice provided by the City. The agency shall indicate if additional permits or approvals are required for access or transportation improvements separate from the City of Milwaukie requirements.

19.1405.5 Approval Criteria. Criteria for decisions under Chapter 19.1400 are as follows:

A. The proposed development and related transportation improvements comply with procedures, requirements, and standards of Chapter 19.1400 and the Transportation Design Manual unless an exception or adjustment has been granted in accordance with Section 19.1404 or a variance has been granted in accordance with Chapter 19.700.

B. If a transportation impact analysis is required, the findings of the analysis ensure that the development will provide transportation improvements and mitigation in rough proportion to the identified impacts of the development.

C. All required improvements identified under city review of a transportation impact analysis shall be provided or otherwise accommodated in accordance with Section 19.1408.4-Mitigation.

D. The proposed development will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated. (Ord. 1907 (Attach. 2), 2002; Ord. 1893 (part), 2001)

19.1406 Neighborhood Through-trip Study.

Any non-residential development adding more than twenty-five (25) through vehicles per day to an adjacent residential local street will require assessment and mitigation of local street impacts. Through trips are defined as those to and from a development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include the following:

- A. An estimate of the number of through trips per day on adjacent residential streets created by the development and the

existing counts for the same streets.

B. Traffic management strategies shall be identified to mitigate the impacts of increased through trips attributed to new development consistent with Section 19.1408.3-Rough Proportionality and 19.1408.4-Mitigation.

This provision shall be implemented independent of Section 19.1408 when the development proposal does not require a transportation impact study in accordance with 19.1408.2.B-Threshold Scoring. If a transportation impact analysis is required, the through-trip study shall be included in the transportation impact study. (Ord. 1893 (part), 2001)

19.1407 Adequate Transportation Facility Requirement.

19.1407.1 Purpose. The purpose of this Chapter is to ensure that streets, sidewalks, and other transportation facility design elements are safe, convenient, and adequate to accommodate the impacts of new development or redevelopment consistent with the State Transportation Plan Rule and the Milwaukie Comprehensive Plan, Transportation System Plan, and Capital Improvement Plan.

19.1407.2 Adequacy Requirement.

Rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities shall be adequate at the time of development or shall be made adequate in a timely manner for all development projects subject to review under Chapter 19.1400. This provision applies to transportation facilities located in the public right-of-way abutting the development site.

The provision may also apply to transportation facilities located in rights-of-way that do not abut the site when a transportation impact analysis conducted under Section 19.1408 demonstrates that affected facilities are insufficient to accommodate the impacts of the proposed development. In such cases transportation improvements are required in rough proportion to the impacts created by the development in accordance with Section 19.1408.

19.1407.3 Definition of Necessary Improvements. As used in 19.1407.2, “necessary improvements” are:

A. Improvements identified as necessary in a transportation impact analysis to comply with the adequate public facility requirement; and/or

B. Improvements otherwise identified as necessary for compliance with 19.1407.4.B.

19.1407.4 Definition of Adequacy. As used in 19.1407.2, “adequate” means the following:

A. Compliance with Level of Service D for all intersections, except those on Oregon Highway 99E, which shall be subject to the following:

1. Level of Service F for the first hour of the morning or evening two-hour peak period; and
2. Level of Service E for the second hour of the morning or evening two-hour peak period; and

B. Compliance with the design standards specified in Chapter 19.1400 and the Transportation Design Manual, including but not limited to the following:

1. Right-of-way width;
2. Functional classification cross section;
3. Transportation facility design standards;
4. Pedestrian, bicycle and transit standards; and
5. Access management standards.

19.1407.5 Determination of Level of Services. Level of Service is determined by using the latest edition of the Highway Capacity Manual (Transportation Research Board). Comparable measures of performance, including volume to capacity analysis, may be substituted for Level of Service analysis, as outlined in the Transportation Design Manual.

19.1407.6 Definition of Timely. As used in 19.1407.2, “timely” means the following:

A. Necessary transportation improvements will be constructed by the developer or through another mechanism, such as a local improvement district. Necessary improvements shall be completed, or the developer shall provide the City with a deposit, letter of credit, performance bond or other surety satisfactory to staff, prior to:

1. Final city inspections for occupancy approval; and/or
2. Recording of the plat in the case of a subdivision or partition; and/or

B. Necessary transportation improvements are included in the Milwaukie Capital Improvement Plan, are fully funded and are scheduled to be under construction within three years of the date the land use approval is issued. (Ord. 1893 (part), 2001)

19.1408 Transportation Impact Analysis.

19.1408.1 Intent. A transportation impact analysis documents the expected impacts of a proposed development on the surrounding transportation system and the adequacy of the transportation system to serve the proposed development. The TIA provides a consistent framework to evaluate transportation impacts and the basis to assess reasonable and proportionate mitigation of impacts. Frontage improvements are a development requirement and shall not be considered mitigation of transportation impacts.

19.1408.2 Applicability.

A. All projects that require development review under Chapter 19.1400 shall schedule a pre-application conference with the Planning Director and City Engineer or designees prior to submittal of the land use application.

B. Based on the information provided by the applicant, the City will determine whether a transportation impact analysis is required under the “threshold scoring” method described in the Transportation Design Manual.

C. The City may also require a pre-application conference and transportation impact analysis for quasi-judicial plan amendment, zone change and conditional use permit applications.

D. The determination of whether a transportation impact analysis is required is not a land use action and may not be appealed.

E. If it is determined that a transportation impact analysis is required, the City shall specify the required content and impact area of the project, consistent with the guidelines in the Transportation Design Manual.

F. The applicant shall pay to the City the costs of transportation impact study review in accordance with the fee resolution adopted by the City Council.

G. If the application requires specific notice to ODOT or Clackamas County under the provisions of 19.1405.4, the City will request agency input to establish a coordinated scope for the transportation impact analysis.

H. The transportation impact analysis shall be submitted with the application materials for land use approval. Failure to submit the transportation impact analysis shall be grounds for deeming the application incomplete pursuant to Section 19.1004 and Oregon Revised Statutes 227.178.

I. The decision-making authority may apply conditions to land use decisions as needed to satisfy adequate transportation facility requirements of Section 19.1408 or otherwise mitigate transportation impacts described in the transportation impact analysis.

19.1408.3 Rough Proportionality.

A. Mitigation of impacts due to increased demand for transportation facilities associated with the development proposal shall be provided in rough proportion to the transportation impacts of the development. These impacts shall be identified by the transportation impact analysis conducted under Section 19.1408.2.

B. The applicant shall bear the burden of demonstrating proportionate impacts to motor vehicle, pedestrian, bicycle, and transit facilities related to the development proposal.

C. The estimation of rough proportionality does not require precision, though it shall be as precise as possible given available

analytical methods. Accepted engineering methods shall be used when available and appropriate. Limitations of available engineering methods and practices do not preclude estimation of rough proportionality through other approaches. Professional judgement and reasoning may be used to describe proportional impacts in terms that allow identification of required mitigation. In identifying proportional impacts the following shall be considered:

1. Condition and capacity of existing facilities within the impact area in relation to city standards.
2. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.
3. The effect of increased demand on transportation facilities related to the proposed development and any other approved development within the impact area.
4. Applicable Transportation System Plan/Comprehensive Plan policies and network action plans.
5. Whether any route affected by increased demand within the impact area is listed in any city program including School Trip Safety; Neighborhood Traffic Management; Capital Improvement; System Development Improvement, or others.
6. Accident history within the impact area.
7. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.
8. Other considerations as may be specified in the development review process and communicated in writing by the City.

19.1408.4 Mitigation.

A. Mitigation of transportation impacts shall be provided by the applicant when there is an increase in demand for transportation facilities, including motor vehicle, pedestrian, bicycle, and/or transit trips within the impact area. Increase in demand is demonstrated through a transportation impact analysis conducted under this Chapter.

B. Mitigation options include, but are not limited to, the following:

1. On- and off-site improvements constructed by the developer (beyond required frontage improvements) can be considered as mitigation of transportation impacts.
2. Demand management programs may be used as mitigation when applied as conditions of land use approval.
3. Payment of in-lieu fee may be used to meet mitigation requirements where it is not practical to construct improvements due to cost or timing considerations. The in-lieu fee shall be commensurate with the cost of mitigation improvements. Such payments shall be reserved by the city for future transportation projects that serve the project impact area.
4. Correction of off-site transportation deficiencies within the impact area, not substantially related to the impacts of the project, may be credited toward mitigation requirements.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the project site that exceed minimum required standards and which have a public transportation benefit may be considered toward meeting mitigation requirements. (Ord. 1893 (part), 2001)

19.1409 Street Requirements and Design Standards.

19.1409.1 General Provisions.

A. Streets shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.

B. Streets shall be designed in consideration of Chapter 5 of the Milwaukie Comprehensive Plan. Chapter 5, Figure 6.1 illustrates the Functional Classification of Streets; Figure 6.10 illustrates the Street Master Plan.

C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section 19.1408.

D. No development permit shall be issued unless the development has frontage or approved access to a public street. For lots

that are legally nonconforming with regard to frontage, an access easement sufficient to accommodate required improvements will be required.

E. All transportation facilities shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual. ODOT facilities shall be designed consistent with state and federal standards.

F. Cross sections for street improvements by functional classification are included in the Transportation Design Manual.

G. Rights-of-way shall be provided in accordance with the widths shown in Table 19.1409.3 and may not be varied under provisions of this Chapter.

H. Transportation facility design standards shall be provided in accordance with the dimensions shown as “required” on Table 19.1409.3.

I. Under provisions of Section 19.1404-Adjustments and Exceptions, the City Engineer may authorize adjustments to transportation facility design standards not less than the “minimum allowed” dimensions in Table 19.1409.3.

19.1409.2 Street Functional Classification and Improvement Standards.

A. Right-of-way and Improvements. Table 19.1409.3 specifies right-of-way widths and improvement standards by street functional classification. The Transportation Design Manual includes cross sections that illustrate the improvements (e.g., lanes, parking strip, sidewalk, etc.) associated with each functional classification and right-of-way width.

B. Dedication. All streets and necessary rights-of-way shall be dedicated to the public for street purposes in accordance with Table 19.1409.3 and Section 19.1407 Adequate Transportation Facility Requirements. Additional dedication may be required at intersections for improvements identified as needed by the Milwaukie Transportation System Plan or a transportation impact analysis conducted under Section 19.1408.

C. Improvements. No development shall occur unless the development has frontage or approved access to a public street.

1. Any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with this Chapter.

2. New development shall be connected to the street network by a paved street.

3. Half-street improvements, as opposed to full-width street improvements, are generally not acceptable. However, half-street improvements may be approved where essential to reasonable development of the property and when the review authority finds that it will be possible to obtain the dedication and/or improvement of the remainder of the street when property on the other side of the half-street is developed. The minimum width for a half-street improvement shall be 20 feet.

4. To ensure adequate access to a development site, the review authority may require off-site street improvements concurrent with development if warranted by a Transportation Impact Analysis.

5. Where necessary to give access or permit future development of adjoining land, streets shall be extended to the boundary lines of the tract to be developed, and:

a. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed.

b. A barricade and sign shall be constructed at the end of the street that shall not be removed until authorized by the City Engineer. The cost of the barricade and sign shall be included in the street construction cost.

c. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.

d. In order to assure the eventual continuation or completion of the street, reserve strips may be required.

e. Drainage facilities shall be provided to properly manage storm water run-off from temporary dead-ends.

D. Traffic calming may be required in the design of a proposed street through the development review process or through the Neighborhood Traffic Management Program for existing streets. Traffic calming devices shall be designed to the standards in the

Transportation Design Manual.

E. Vision Clearance. No signs, structures, or vegetation in excess of three feet in height shall be placed in “vision clearance areas” at intersections of streets, driveways, and alleys based on the guidelines in the most recent edition of the “AASHTO Policy on Geometric Design of Highways and Streets” (Green Book). The City Engineer may vary sight distance standards in the interest of preserving significant vegetation, or other valued features, where the variance will not cause undue safety hazards.

F. Additional Setbacks from Major Streets. Yards abutting a major street are subject to additional yard requirements. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of a building shall be in accordance with Table 19.1409.2.

19.1409.3 General Street Design Standards.

A. General. The length, width and shape of blocks shall take into account the need for adequate lot size, convenient access, circulation and traffic safety, and shall recognize the limitations of the topography.

B. Street layout and connectivity. Street layouts shall be generally rectilinear and may be aligned to physically adapt streets to topography or other natural conditions; or to provide a variety of alignments or grid patterns within an interconnected street system.

C. Block length and perimeter. For parcels of land to be subdivided with a total size of three acres or larger, no block may be more than 530 feet in length between intersecting street lines, unless it is adjacent to an arterial street, except where topography, barriers including railroads, freeways, existing development, or environmental constraints including but not limited to wetlands or water features warrant exception.

For sites to be subdivided with a total size of less than three acres, no block may be more than 800 feet in length between intersecting street lines, unless it is adjacent to an arterial street, except where topography, barriers including railroads, freeways, existing development, or environmental constraints including but not limited to wetlands or water features warrant exception.

The average perimeter of blocks formed by streets shall not exceed 1,600 feet.

For the purpose of this section, “existing development” means built improvements including streets, associated utilities, and permanent residential, commercial, or institutional structures. Modification of the block length and perimeter standards shall only be permitted under variance provisions of Zoning Ordinance Chapter 19.700.

D. Cul-de-sacs shall only be provided when no opportunity exists for creating a through street connection. The lack of present ownership or control over abutting property shall not be grounds for construction of a cul-de-sac. For parcels of land to be subdivided with a total size of three acres or larger, a street ending in a cul-de-sac shall have a maximum length of 200 feet, measured from the cross street right-of-way to the farthest point of right-of-way containing the cul-de-sac. For parcels of land to be subdivided with a total size of less than three acres, a street ending in a cul-de-sac shall have a maximum length of 400 feet, measured from the cross street right-of-way to the farthest point of right-of-way containing the cul-de-sac. A cross section for cul-de-sacs is provided in the Transportation Design Manual.

E. Pedestrian/bicycle accessways shall be required to provide mid-block connections between blocks that exceed 600 feet, or to link the end of a cul-de-sac with a nearby collector or arterial street or activity center. The standards for accessways are provided in Sections 19.1410 and 19.1411.

F. Closed end street systems, as defined in Section 19.103 may serve no more than 20 dwellings.

G. Alleys. Alleys are encouraged in commercial and industrial developments. Alleys are allowed in residential districts with the approval of the Planning Commission, subject to the standards in the Transportation Design Manual.

H. Street design details. Standards for design speed, horizontal/vertical curves, grades and curb return radius are specified by street functional classification in the Transportation Design Manual.

I. Street names. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

J. Railroad crossings. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for

such improvements may be a condition of development approval, or another equitable means of cost distribution subject to Section 19.1407-Adequate Transportation Facilities and 19.1408-Transportation Impact Analysis as applicable.

K. Street signs. The City shall install all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. The cost of signs shall be the responsibility of the developer.

L. Traffic signals. The location of traffic signals shall be noted on approved development plans. Where a proposed intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed.

M. Streetlights. The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with regulations adopted by the City.

19.1409.4 General Intersection Design Standards.

A. Connecting street intersections shall be located to provide for traffic flow, safety, and turning movements, as conditions warrant.

B. Street and intersection alignments for local streets should facilitate local circulation but avoid alignments that encourage non-local through traffic.

C. Streets should generally be aligned to intersect at right angles (90 degrees). Angles of less than 75 degrees will not be permitted unless the City Engineer has approved a special intersection design.

D. New streets shall intersect with existing street intersections so that centerlines are not offset, except as provided in Table 19.1409.1. Where existing streets adjacent to a proposed development do not align properly, conditions may be imposed on the development to provide for proper alignment. (Ord. 1893 (part), 2001)

Table 19.1409.1. Street/intersection Spacing.

Street Classification	Minimum Distance	Maximum Distance
	Between Street Intersections	Between Street Intersections
Arterial	530 feet	1000 feet
Collector	300 feet	600 feet
Neighborhood Route	150 feet	400 feet
Local	100 feet	530 feet

Table 19.1409.2 Additional Yard Requirements.

Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th to Stanley)	25 feet
Harmony Road	40 feet
Harrison Street (Milwaukie Expressway to 44th)	40 feet

Harrison Street (Milwaukie Expressway to McLoughlin)	30 feet
Harvey Street (32nd to 42nd)	25 feet
Howe Street (42nd to 43rd)	30 feet
Johnson Creek Boulevard	30 feet
King Road	40 feet
Linwood Avenue	40 feet
Lake Road	30 feet
Logus Road	25 feet
Monroe Street (52nd to Linwood)	30 feet
Oak Street	30 feet
Oatfield Road	30 feet
Ochoco Street	30 feet
Olsen Street	25 feet
Railroad Avenue	30 feet
River Road (south of Lark Street)	30 feet
Roswell Street (32nd to 42nd)	25 feet
Washington Street (west of Railroad)	30 feet
Willow Street (Windsor Drive to Stanley)	25 feet
17th Avenue (Ochoco to McLoughlin)	40 feet
32nd Avenue (north of Harrison)	30 feet
37th Avenue (Lake Road to Grogan)	25 feet
40th Avenue (Harvey to Railroad)	40 feet
42nd Avenue (Johnson Creek Blvd. to Howe Street)	30 feet
42nd Avenue (Harrison Street to King Road)	30 feet
43rd Avenue (Howe to King)	30 feet
55th Avenue (Firwood to Johnson Creek Blvd.)	25 feet

Table 19.1409.3 Transportation Facility Design Standards *Dimensions are shown in feet*

Classification	Right of Way	Travel Lane		On-street Parking		Sidewalks		Landscape Strips		Bike Lane/ Combined Bike & Travel Lane	
		Req'd.	Min. Allowed	Req'd.	Min. Allowed ¹	Req'd.	Min. Allowed	Req'd.	Min. Allowed	Req'd.	Min. Allowed
Arterial ²	73	12	11	8	7/6	10	5	5	0	6/16	5/14
Collector ³	60	11	10	8	7/6	8	5	5	0	6/16	5/14
Neighborhood	52	10	10	8	7/6	6	4	5	0	6/16	5/14

Local	50	10	10	8	7/6	6	4	5	0	6/16	5/14
Truck Route	n/a	12	11	8	7/6	n/a	n/a	n/a	n/a	6/16	5/14
Bus Route	n/a	12	11	8	7/6	n/a	n/a	n/a	n/a	6/16	5/14

Arterials⁴**Collectors****Neighborhood Routes**

OR Highway 99E*	Johnson Creek Blvd.*	Main Street	Roswell Street	Logus Road
OR Expressway 224*	17 th Avenue*	Stanley Avenue	Olsen Street	27 th Avenue
Linwood Avenue*	32 nd Avenue	Oak Street	Harvey Street	37 th Avenue
Lake Road*	Washington Street	Monroe Street	Brookside Drive	Wood Avenue
King Road*	Jefferson Street	Jackson Street	Regents Street	Washington Street/Ida Lane
Harrison Street*	34 th Avenue	Railroad Avenue	Willow Street	Furnberg Drive/71 st Avenue
River Road*	42 nd Avenue	Rusk Road	Mason Lane	Cedar Crest Drive
	43 rd Avenue	37 th Avenue	Howe Street	Home Avenue

*A street shown with an asterisk indicates the route is a regional facility in accordance with the Regional Transportation Plan.

¹ Minimum residential on-street parking is 6 feet. Minimum commercial on-street parking is 7 feet.

² Right-of-way requirements for Oregon Highway 99E and Expressway 224 shall be determined by Oregon Department of Transportation. Required right-of-ways for the following arterials supercede Table 1409.3: 60 feet for Oatfield Road, 64 feet for Linwood Avenue.

³ Right-of-way requirements are 72 feet for 17th Avenue between Highway 99E and Expressway 224; 60 feet for 17th Avenue north of Expressway 224; and 50 feet for the following: Monroe Street west of 224, Stanley Avenue, 34th Avenue 600 feet north of Lake Road, 32nd Avenue, and the conjunction of 43rd Avenue-Howe Street-42nd Avenue.

⁴ Minor arterials include Linwood Avenue, Lake Road, Harrison Street, King Road, and Oatfield Road. McLoughlin Blvd. south of Harrison is a major arterial; north of Harrison it is a principal arterial.

19.1410 Pedestrian requirements and Standards.

19.1410.1 General Provisions.

A. Pedestrian facilities, including public sidewalks, on-site walkways, and pedestrian/bicycle accessways, shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.

B. Goals, objectives and policies relating to walking are included in Chapter 5 of the Milwaukie Comprehensive Plan and provide the context for the pedestrian requirements and standards. Figure 3.1 of the Comprehensive Plan illustrates the Walkways Network Master Plan and Figure 3.2 illustrates the Walkways Action Plan.

C. Americans with Disabilities Act (ADA) requirements for pedestrian facilities shall apply where there is a conflict with City standards.

19.1410.2 Public sidewalks.

A. Requirement. Public sidewalks are required on the public street frontage of all new development (including detached and attached single family dwellings on existing lots), all land divisions, and substantial redevelopment of commercial, industrial, multifamily and institutional uses. Public sidewalks are generally constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within an easement with the approval of the City Engineer.

B. **Design Standards.** Standards and cross section details for the location, width and design of public sidewalks are included in the Transportation Design Manual.

C. **Maintenance.** Maintenance of sidewalks, curbs, and planting strips is the continuing obligation of the adjacent property owner in accordance with Chapter 12.04.

19.1410.3 On-site walkways and circulation.

A. **Requirement.** All new development (excluding single family) and substantial redevelopment of commercial, industrial, multifamily and institutional uses shall provide a system of walkways that encourage safe and convenient pedestrian movement within the site and connections to off-site destinations. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

B. **Location.** A walkway into the site shall be provided for every 300 feet of street frontage.

C. **Connections.** Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.

D. **Routing.** Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

E. **Design Standards.** Walkways shall be constructed with a hard surface material and shall be no less than 5 feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a seven foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.1410.4 Pedestrian/bicycle accessways.

A. **Intent.** Pedestrian/bicycle accessways are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers and commercial districts to adjacent and nearby residential areas, transit stops and neighborhood activity centers where public street connections between such uses are unavailable.

Public street connections for cars, pedestrians and bicycle circulation are preferable to accessways. Pedestrian/bicycle accessways should only be used to ensure connectivity to nearby neighborhood activity centers in areas where no other public street options are available.

B. **Requirement.** Pedestrian/bicycle access-ways shall be required in the following situations:

1. In residential and industrial districts where a street connection is not feasible and the addition of an accessway would reduce walking or bicycling distance by four hundred feet or more, and by at least fifty percent over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.

2. In commercial and community service overlay districts where addition of an accessway would reduce walking or bicycling distance by two hundred feet, and by at least fifty percent over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.

3. For purposes of 1 and 2 above, other available pedestrian routes include public sidewalks and walkways within shopping centers, planned developments and industrial districts. Routes may cross parking lots on adjoining properties if the route is open to the public for pedestrian use, is a paved surface and is unobstructed.

4. Accessways shall be located to provide a reasonably direct connection between likely pedestrian destinations.

C. **Design Standards.** An accessway shall have a minimum right-of-way width of fifteen feet and shall be improved to a

minimum width of ten feet and paved with a hard surface material. If an accessway also provides secondary fire access or a public utility corridor, its right-of-way width shall be at least twenty feet with a minimum fifteen-foot-wide paved surface. Additional standards relating to entry points, maximum length, visibility, and lighting of accessways are provided in the Design Manual.

D. Ownership, liability and maintenance of accessways. To enable access and allow maintenance over time for all pedestrian/bicycle accessways, the City Engineer can require one of the following:

1. That the accessways be dedicated to the public and accepted by the City as public right-of-way prior to the final approval of the development.
2. That approval of the development shall be contingent upon granting to the public access easements to such accessways.
3. That the developer incorporate the accessway into recorded easements or tract(s) of common ownership which specifically requires the property owners and future property owners who are subject to such easements or are owners of such tracts to provide for the ownership, liability and maintenance of the accessway. (Ord. 1893 (part), 2001)

19.1411 Bicycle Requirements and Standards.

19.1411.1 General Provisions.

A. Bicycle facilities, including on-street bike lanes, off-street bikeways, and bicycle parking, shall be designed and improved in accordance with the standards of this Chapter, the bicycle parking provisions of Section 19.505, and the Transportation Design Manual.

B. Goals, objectives and policies relating to bicycling are included in Chapter 5 of the Milwaukie Comprehensive Plan. Figure 4.1 of the Comprehensive Plan illustrates the Bikeways Network Master Plan and Figure 4.2 illustrates the Bikeways Action Plan.

19.1411.2 Bike Lanes and Bikeways.

A. Requirement. Bike lanes and bikeways shall be provided in accordance with the Milwaukie Transportation System Plan. Except as amended by the Transportation System Plan, bike lanes shall be provided along collector and arterial streets.

B. Timing of Construction. To assure continuity and safety, bike lanes and bikeways will generally be constructed as part of the construction or improvement of collector and arterial streets.

C. Design Standards. Bike lanes shall be 6 feet wide and shall be provided for each direction of travel allowed on the street. Bike lanes and bikeways shall be constructed consistent with the design guidelines and standards delineated in the latest edition of the Oregon Bicycle Plan. Excerpts of the guidelines and standards are provided in the Transportation Design Manual.

19.1411.3 Bicycle Parking. Bicycle parking requirements are set forth in Chapter 19.500. (Ord. 1893 (part), 2001)

19.1412 Transit Requirements and Standards.

19.1412.1 General Provisions.

A. Transit facilities, including bus stops, shelters and related facilities, shall be designed and improved in accordance with Tn-Met standards and the requirements and standards of this Chapter and the Transportation Design Manual.

B. Goals, objectives and policies relating to transit are included in Chapter 5 of the Milwaukie Comprehensive Plan.

19.1412.2 Transit Facilities.

A. Notice and Coordination with Tri-Met. When development of a multifamily, commercial, office, or institutional use is proposed within two hundred feet of an existing or planned transit route, notice shall be provided to Tri-Met as outlined in Section 19.1405.4. Tri-Met may recommend that transit-related facilities be constructed at the time of development to support transit use.

B. Factors Determining Transit Requirements. The factors that determine the level of transit facility requirements include but are not limited to street classification, existing and planned level of transit service in adjacent streets, block length, proximity of

major pedestrian destinations, existing and anticipated ridership, and transit needs of a development. Required improvements may include provision of an easement for a bus stop, benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lights. The required improvements shall reflect a reasonable and proportionate share of the impacts of the development.

C. **Location of Transit Facilities.** Transit facilities shall be located at controlled street intersections, where possible. A bus stop shall consist of at least a bus stop pad designed in compliance with the ADA. The location of the bus stop shall be chosen so that there is a connection to an accessible route. Where a bus stop has already been established within 500 feet of the affected development, a new bus stop shall only be provided if recommended by Tri-Met and required by the Director. Otherwise, the developer shall upgrade the existing stop through provision of improved waiting facilities (i.e., installation of benches, shelters or landscaping).

19.1412.3 Building Orientation to Transit. The following requirements apply to all new multifamily, commercial, office, and institutional development within 500 feet of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

A. **Building Orientation to Transit Street.** New buildings shall have their primary orientation toward a transit street or, if not adjacent to a transit street, a public right-of-way which leads to a transit street. The primary building entrance shall be visible from the street and shall be directly accessible from a sidewalk connected to the public right-of-way. A building may have more than one entrance. If the development has frontage on more than one transit street, the primary building entrance may be oriented to either street or to the corner.

B. **Maximum Setbacks Adjacent to Transit Street.** When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321-Community Service Overlay Zone, shall be set back no more than 30 feet from the right-of-way that is providing transit service.

1. An individual building may be set back more than 30 feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30 foot setback standard.

2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 feet.

3. If the proposed building is part of an institutional campus, the Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

4. If the site abuts more than one street served by transit, then the maximum setback requirement need only apply to one street. (Ord. 1893 (part), 2001)

[19.1413 Access Management Standards.](#)

19.1413.1 General Provisions.

A. **Access permit required.** Access to a public street requires an access permit in accordance with the following:

1. Permits for access to City streets shall be subject to review and approval by the City Engineer based on the adopted City standards contained in this Chapter. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.

2. Permits for access to State highways shall be subject to review and approval by ODOT, except when ODOT has delegated this responsibility to the City or Clackamas County. Decisions regarding access permits to State highways shall be based on access standards adopted by ODOT.

3. Permits for access to County highways shall be subject to review and approval by Clackamas County, except where the County has delegated this responsibility to the City. Decisions regarding access permits to County highways shall be based on

access standards adopted by Clackamas County.

B. Access Spacing Targets. All development shall be provided public street access. Access roads (public, and/or private), driveways, and easements shall be as set forth in other sections of these Design Standards. Spacing of access points (public street and/or driveways) shall meet the criteria in Table 19.1413.1 to the greatest extent practicable. The minimum spacing is measured between the nearest points of the point of curvature on the curb return(s) of public streets or the top of the wings of any driveway

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

C. Modification of Access Spacing Targets. Any development that deviates from the access spacing (public street or driveway) targets will be required to prepare an access study that assesses transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirements established in Table 19.1413.1. For example, for a site with arterial access, analysis would include evaluation of site access and capacity along the project frontage plus capacity and access issues within five hundred and thirty feet of the adjacent property. The access study shall include the following:

1. Review of site access spacing and design.
2. Traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.
3. Review of all modes of transportation to the site.
4. Where access spacing targets are not met, a series of mitigation measures shall be identified including but not limited to assessment of medians, consolidation of access, shared driveways, temporary access, provision of future consolidated access or other measures that would be acceptable to the City Engineer or designee.

D. Driveways. Access to private property shall be permitted with the use of driveway curb cuts. The access points with the street shall be the minimum necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Driveways shall meet all applicable guidelines of the Americans with Disabilities Act.

TABLE 19.1413.1 Access Spacing Targets.

Street Classification	Minimum feet
Arterial	600
Collector	300
ODOT Facilities (ORE 99E, ORE 224)	Per Appendix C of Oregon Highway Plan

E. Access study requirements. The City or other agency with access jurisdiction may require an access study prepared by a qualified professional to determine access requirements.

F. Authority to restrict access. To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the City Engineer may restrict the location of driveways on streets and require that driveways be placed on adjacent streets, upon the finding that the proposed access would:

1. Cause or increase existing hazardous traffic conditions;
2. Provide inadequate access for emergency vehicles; or
3. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

G. Conditions of approval. The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements for shared driveways, development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.

19.1413.2 Location of Driveway Access.

A. Double frontage. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

B. Distance from property line. Unless a shared access is proposed or required, new curb cuts for driveway access shall be at least seven and a half feet from the property line in residential districts and at least ten feet from the property line in all other districts.

C. New single family development fronting arterials or collectors. Direct individual access to arterial or collector streets from detached or attached single-family dwellings and lots shall be discouraged. Direct access shall be considered only if there is no practical alternative way to access the site and only if the driveway is designed to allow for vehicles to turn around on-site (via a hammerhead or loop).

D. Backing into the right-of-way prohibited. Driveways shall be designed to contain all vehicle backing movements on-site, except for detached or attached single family uses on local streets.

E. Minimum distance from driveway to intersection curb return. To protect the safety and capacity of street intersections, the following minimum distance from the intersection curb return to the bottom of the driveway wing shall be maintained:

1. For local and neighborhood streets, driveways for detached or attached single family residential shall be located at least forty-five feet from the intersection curb return, or located as far away from the curb return as possible.

2. Driveways for multifamily and all other uses accessing local and neighborhood streets shall be located at least one hundred feet from the intersection curb return.

3. For arterials and collectors, driveways shall be located beyond the end of queue of traffic during peak hour conditions or a minimum of four hundred feet for arterials and three hundred feet for collectors, whichever is greater.

19.1413.3 Number and Size of Driveways.

A. Number. The number of access points on arterial and collector streets from any development shall be minimized whenever possible through the use of shared driveways and coordinated on-site circulation patterns.

1. One driveway per site frontage will be the normal number allowed. For residential properties, additional site access is permitted by use of a mountable curb and reinforced sidewalk in accordance with design requirements of the Transportation Design Manual.

2. Multifamily, commercial or industrial developments with street frontage greater than one hundred and fifty feet may request an additional driveway, if needed.

B. Shared driveways. Within commercial, industrial and multifamily areas, shared driveways and internal access between similar uses are encouraged to reduce the number of access points to the higher classified roadway, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared driveways or internal access between uses will be established by means of common access easements.

C. Driveway size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This Chapter does not apply to requirements for flag lots, which are found in Title 17.

1. Single family attached and detached uses shall have a minimum driveway width of 9 feet and a maximum width of eighteen feet.

2. Three-family uses shall have a minimum driveway width of sixteen feet and a maximum width of twenty feet.
3. Multiple family uses with between four and seven dwellings shall have a minimum driveway width of twenty feet, and a maximum width of twenty-four feet.
4. Multiple family uses with more than eight dwelling units, and off-street parking areas with sixteen or more spaces, shall have a minimum driveway width of twenty-four feet, and a maximum width of thirty feet.
5. Commercial, office and institutional uses shall have a minimum driveway width of twelve feet, and a maximum width of thirty-six feet.
6. Industrial uses shall have a minimum driveway width of fifteen feet, and a maximum width of forty-five feet.

Maximum driveway widths for commercial and industrial uses may be increased if the City Engineer determines that more than two lanes are required based on the number of trips generated or the need for turning lanes. (Ord. 1893 (part), 2001)

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Chapter 19.1500 BOUNDARY CHANGES

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Title 19 ZONING

Chapter 19.1500 BOUNDARY CHANGES**19.1501 Purpose.**

The purpose of this section is to carry out the provisions of ORS 268.354 and Metro Code Chapter 3.09. This section provides standards and procedures for all boundary change proposals, including annexation proposals. For the purpose of this section, the term “boundary change” includes the formation, merger, consolidation, or dissolution of a city or district; annexation or withdrawal of territory to or from a city or district or from a city-county to a city; or an extraterritorial extension of water or sewer service by a city or district. (Ord. 1880 (part), 2000)

19.1502 Annexations.**19.1502.1 Administration and Approval Process.**

A. Annexation petitions shall include a request for comprehensive plan and zoning designations, and shall be reviewed by the planning commission and the city council in accordance with subsection 19.1011.4, Major Quasi-Judicial Review. The council decision on the proposal shall be considered the “final decision,” for purposes of compliance with Metro Code Chapter 3.09.

B. Notice of the planning commission and council hearings to consider annexation proposals shall follow the procedures of subsection 19.1011.4, Major Quasi-Judicial Review, as well as the uniform notice requirements provided in Metro Code Section 3.09.030.

C. A staff report shall be issued at least fifteen days prior to the hearing, pursuant to the requirements of Metro Code Section 3.09.050(b).

D. The final decision shall be made by the council, by ordinance, after a public hearing. The decision shall be reduced to writing and shall include findings, conclusions, and conditions, if necessary; based on compliance with subsection 19.1502.3, other implementing ordinances, and the uniform hearing and decision requirements of Metro Code Section 3.09.050.

19.1502.2 The Petition.

A. A petition to annex to the city will only be accepted for sites located within the city urban growth boundary. A petition to annex may be initiated by a property owner(s) of the area to be annexed or the city, as listed below:

1. By Consent of All Owners of Land, ORS 222.125. When all the owners of land in the territory to

be annexed and not less than fifty percent of the electors, if any, residing in the territory to be annexed consent in writing to the annexation of their land in the territory and file a statement of their consent with the city.

2. By Triple-Majority Consent Petition, ORS 222.170(1). ORS 222.170(1) allows annexation when a majority of the landowners in the territory to be annexed consent in writing with the city. The land owned by the consenting landowners must total over half the area of the land in the territory to be annexed and must have an assessed value totaling more than half of the assessed value of the land in the territory to be annexed.

3. By Double-Majority Consent Petition, ORS 222.170(2). When a majority of the electors registered in the territory proposed to be annexed consent in writing to the annexation, and the owners of more than half of the land in that territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the city.

4. By the city council on its own motion, pursuant to ORS 222.111(2) or the “island” annexation statute, ORS 222.750.

5. Pursuant to the health hazard annexation process, ORS 222.840 to 222.915.

B. A prerequisite to the filing of an annexation petition is a preapplication conference, at which time the planning director shall explain the requirements and provide the appropriate forms.

C. An annexation petition shall include the completed petition form and thirteen copies of each of the following, except for each drawing submitted there shall be twelve at the original scale and one copy reduced to an eight and one-half inch by eleven inch paper size.

1. The minimum petition requirements of Metro Code Section 3.09.040;

2. A narrative that addresses the approval criteria set forth in subsection 19.1502.3 and Metro Code Sections 3.09.050(d) and, if applicable, (e);

3. Vicinity, legal, and other descriptive maps necessary to show compliance with subsection 19.1502.3 and Metro Code Section 3.09.040. This shall include two county assessor's quarter section maps on which the territory to be annexed has been outlined in red;

4. Metes and bounds legal description for the area to be annexed, including road right-of-way where appropriate. Lot and block legal description may be used if the territory includes only platted area and does not include any street right-of-ways.

D. The applicant shall pay the requisite fee. The fee for an annexation shall be established by resolution of the council.

19.1502.3 Approval Criteria. The city council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria:

A. The subject site must be located within the city urban growth boundary;

- B. The subject site must be contiguous to the existing city limits;
- C. The requirements of the Oregon Revised Statutes for initiation of the annexation process must be met;
- D. The proposal must be consistent with Milwaukie comprehensive plan policies; and
- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d) and, if applicable, (e). (Ord. 1880 (part), 2000)

[19.1503 Other boundary changes.](#)

19.1503.1 Administration and Approval Process.

- A. A petition for any type of boundary change, other than annexation, shall be processed as provided by state law and Metro Code Chapter 3.09.
- B. Boundary change proposals shall be considered only by the city council. The council decision on the proposal shall be considered the “final decision” for purposes of compliance with Metro Code Chapter 3.09.
- C. Notice of the council hearing to consider boundary change proposals shall follow the uniform notice requirements provided in Metro Code Section 3.09.030.
- D. A staff report shall be issued at least fifteen days prior to the hearing, pursuant to the requirements of Metro Code Section 3.09.050(b).
- E. The final decision shall be made by the council after a public hearing. The decision shall be reduced to writing and shall follow the uniform hearing requirements of Metro Code Section 3.09.050.

19.1503.2 The Petition.

- A. A prerequisite to the filing of a boundary change petition is a preapplication conference, at which time the planning director shall explain the requirements and provide the appropriate forms.
- B. A boundary change petition shall include the completed petition form and thirteen copies of each of the following, except for each drawing submitted there shall be twelve at the original scale and one copy reduced to an eight and one-half inch by eleven inch paper size.
 1. The minimum petition requirements of Metro Code Section 3.09.040;
 2. A narrative that addresses the approval criteria set forth in subsection 19.1503.3;
 3. Vicinity, legal, and other descriptive maps necessary to show compliance with Metro Code Section 3.09.040. This shall include two county assessor's quarter section maps on which the territory to be annexed has been outlined in red;
 4. Metes and bounds legal description for the area located within the proposed boundary change, including road right-of-way where appropriate. Lot and block legal description may be used if the

territory includes only platted area and does not include any street right-of-ways.

C. The applicant shall pay the requisite fee. The fee for a boundary change shall be established by resolution of the council.

19.1503.3 Approval Criteria. The city council shall approve or deny a boundary change proposal, other than annexations, based on findings and conclusions addressing the following criteria:

A. The proposal complies with the criteria of Metro Code Section 3.09.050(d) and, if applicable, (e). (Ord. 1880 (part), 2000)

[19.1504 Expedited process.](#)

19.1504.1 Administration and Approval Process.

A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.

1. Initiation of an expedited boundary change petition must follow the requirements of Metro Code Section 3.09.045(a).

2. A prerequisite to the filing of an expedited boundary change petition is a preapplication conference, at which time the planning director shall explain the requirements and provide the appropriate forms.

3. An expedited boundary change petition shall include the materials required by subsection 19.1502.2C for annexations and subsection 19.1503.2B for other boundary changes.

4. The applicant shall pay the requisite fee. The fee for an expedited boundary change shall be established by resolution of the council.

5. Approval criteria for annexations are found in subsection 19.1502.3 and for other boundary changes in subsection 19.1503.3.

B. Notwithstanding Section 19.206, an expedited boundary change proposal shall be considered by the city council without a public hearing. The council decision on the proposal shall be considered the “final decision” for purposes of compliance with Metro Code Chapter 3.09. If the petition is for annexation, the decision shall be by ordinance.

C. Notice of petition for an expedited process must be provided to interested persons a minimum of twenty days prior to the final decision and shall follow the expedited notice requirements provided in Metro Code Section 3.09.045(b) and ORS 198 and 222. For purposes of this subsection, “interested persons” include the planning commission, those residing or owning property within four hundred feet of the territory to be annexed, necessary parties as defined in Metro Code Section 3.09.02(j), and any persons who have requested notice.

D. A brief report shall be issued at least seven days prior to the date of decision, pursuant to the requirements of Metro Code Section 3.09.045(c).

E. The city zoning and comprehensive plan designation for an expedited annexation request shall be automatically applied based on the existing Clackamas County zoning designation in accordance with Table 1, provided below:

County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
R-20	R-10	Low density residential
R-15	R-10	Low density residential
R-10	R-10	Low density residential
R-8.5	R-7	Low density residential
R-7	R-7	Low density residential
MR1	R-5	Moderate density residential
MR2	R-2	Medium density residential
PMD	R-1-B	High density residential
HDR	R-1-B	High density residential
SHD	R-1	High density residential
C2	R-O-C	Commercial/high density use
C3	C-G	Commercial
OC	C-L	Commercial
RTL	C-L	Commercial
PC	C-CS	Commercial
I2	M	Industrial
I3	M	Industrial

BP	BI	Industrial
OSM	R-10/CSO	Public

F. An expedited process cannot be used if a necessary party gives written notice to contest the decision, pursuant to Metro Code Section 3.09.045(b) or, in the case of an annexation petition, if the requested zoning designation does not comply with the automatic comprehensive plan designation listed above. (Ord. 1880 (part), 2000)

[19.1505 Appeals.](#)

The city council decision on an annexation or other boundary change may be appealed by a necessary party to the metro boundary appeals commission, pursuant to the provisions of Metro Code Section 3.09.070. An appeal by any other person will be processed according to state law. (Ord. 1880 (part), 2000)